

## **‘Do No Significant Harm’ definitions and criteria across the EU Sustainable Finance framework**

### **1 Introduction**

1. The purpose of this document is to explain the Do No Significant Harm (‘DNSH’) principle that is embedded in several pieces of Sustainable Finance (‘SF’) legislation. The DNSH principle is a key element in the Taxonomy Regulation, (‘TR’) Sustainable Finance Disclosure Regulation (‘SFDR’) and the Benchmark Regulation (‘BMR’). Stakeholders that are subject to these legislative texts need to understand and apply it to comply with their obligations under these regulatory regimes. Additionally, users of information need to understand the basis of the DNSH concept and the approach followed under each text.
2. This document is intended as an aide to stakeholders to navigate the SF framework concerning the DNSH principle. It is a purely factual presentation of the relevant legal provisions in EU Directives, Regulations and Commission Delegated Regulations as well as the relevant guidance provided by the European Commission (‘Commission’) and the European Supervisory Authorities (‘ESAs’)<sup>1</sup>.
3. This document does not add to, interpret or replace the relevant legal texts and has no legal effect. ESMA does not assume any liability for its contents. Readers are advised to always refer directly to the relevant legislation. **This document does not provide guidance on the application of relevant rules and should not be construed as such.**
4. The section that follows sets out the relevant DNSH requirements in each of the three pieces of SF legislation, notably TR, SFDR and BMR.

### **2 DNSH requirements in Sustainable Finance legislation**

#### **2.1 EU Taxonomy Regulation**

5. The TR<sup>2</sup> establishes criteria to determine whether an economic activity substantially contributes to one or more of the environmental objectives<sup>3</sup> set out in this Regulation. However, an economic activity should not qualify as environmentally sustainable if it causes more harm to the environment than the benefits it brings<sup>4</sup>. For this reason, under

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<sup>1</sup> The European Supervisory Authorities are EBA, EIOPA and ESMA.

<sup>2</sup> [Regulation \(EU\) 2020/852](#).

<sup>3</sup> Article 9 TR identifies the following environmental objectives: (a) climate change mitigation; (b) climate change adaptation; (c) sustainable use and protection of water and marine resources; (d) transition to a circular economy; (e) pollution prevention and control; and (f) protection and restoration of biodiversity and ecosystems.

<sup>4</sup> Recital 40 TR.

the EU Taxonomy framework an economic activity qualifies as environmentally sustainable<sup>5</sup> (in other words ‘taxonomy-aligned’) when that activity:

- contributes substantially to one or more of the six environmental objectives established by the TR<sup>6</sup>;
- does not significantly harm any of these six environmental objectives;
- is carried out in compliance with minimum safeguards<sup>7</sup>; and
- complies with the technical screening criteria (‘TSC’) established in accordance with the TR.

6. A key aspect of the EU Taxonomy framework is that the assessment of substantial contribution to an environmental objective, including the DNSH assessment, is carried out at the level of the economic activity with the help of the TSC. The TSC lay out two sets of sector-specific, science-based criteria that are used to determine when an activity: a) substantially contributes to an objective; and b) does not significantly harm (‘DNSH’) the other environmental objectives.
7. Moreover, Article 8 TR introduces a requirement<sup>8</sup> for certain financial and non-financial undertakings to include in their non-financial statement information on how and to what extent their activities are associated with economic activities that qualify as environmentally sustainable. The information requirements to comply with this obligation are specified in detail in the ‘Disclosures Delegated Act’<sup>9</sup>. These disclosures include, inter alia, information regarding the DNSH assessment of each economic activity. Article 17 TR sets out situations where an economic activity could be considered as significantly harmful to the EU Taxonomy environmental objectives and specifies that this assessment should be carried out taking into account “*the environmental impact of the activity itself and the environmental impact of the products and services provided by that activity throughout their life cycle*”. Additionally, Article 18(2) TR imposes a requirement for undertakings to adhere to the DNSH principle in Article 2(17) SFDR when implementing the procedures foreseen in relation to minimum safeguards, establishing thereby a direct link between the TR and the DNSH requirements under the SFDR.
8. The TSC for substantial contribution and DNSH in relation to the environmental objectives of climate change mitigation and climate change adaptation are set out in the Climate Delegated Act and the Complementary Climate Delegated Act<sup>10</sup>. The Commission, as part of the SF package<sup>11</sup> that was published on 13 June 2023, officially adopted the

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<sup>5</sup> Article 3 TR.

<sup>6</sup> Article 9 TR.

<sup>7</sup> Article 18 TR.

<sup>8</sup> Undertakings that are under an obligation to publish non-financial information pursuant to Article 19a or Article 29a of Directive 2013/34/EU are subject to the requirements imposed by Article 8 TR,.

<sup>9</sup> [Commission Delegated Regulation \(EU\) 2021/2178](#).

<sup>10</sup> CDR 2021/2139 ([‘Climate Delegated Act’](#)) and CDR 2022/1214 ([‘Complementary Climate Delegated Act’](#)) covering certain gas and nuclear activities.

<sup>11</sup> You may access the SF package through the link [here](#).

'Environmental Delegated Act'<sup>12</sup> that establishes TSC for the remaining four environmental objectives<sup>13</sup>. At the same time, the Commission introduced targeted amendments to the 'Climate Delegated Act' and the 'Disclosures Delegated Act'.

9. To support the application of the EU Taxonomy, the Commission published guidance to clarify key concepts, including the application of the DNSH TSC. A list of FAQ documents published by the Commission is included in Annex I of this document. Of particular relevance to the DNSH assessment are the following ones which provide guidance on the application of the DNSH TSC and the direct link between the Article 18(2) TR and the DNSH principle in Article 2(17) SFDR:

December 2022:

- [Draft Commission Notice on the interpretation and implementation of certain legal provisions of the EU Taxonomy Climate Delegated Act establishing technical screening criteria for economic activities that contribute substantially to climate change mitigation or climate change adaptation and do no significant harm to other environmental objective](#)
- [Draft Commission Notice on the interpretation and implementation of certain legal provisions of the Disclosures Delegated Act under Article 8 of EU Taxonomy Regulation on the reporting of Taxonomy-eligible and Taxonomy-aligned economic activities and assets](#)

June 2023:

- [Commission Notice on the interpretation and implementation of certain legal provisions of the EU Taxonomy Regulation and its link to the Sustainable Finance Disclosure Regulation \(SFDR\)](#)

## 2.2 Sustainable Finance Disclosure Regulation (SFDR)

10. The DNSH concept was introduced in SFDR in connection with the definition of sustainable investment<sup>14</sup>. DNSH is a key concept of SFDR as it is one of the three elements for the assessment of sustainable investments. In particular, to determine whether an investment is sustainable under the SFDR, Financial Market Participants ('FMPs') need to assess whether:

- their financial product's investments are in economic activities that contribute to an environmental or social objective;
- the investment does not significantly harm any environmental or social objective;
- and

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<sup>12</sup> The [Environmental Delegated Act](#) was officially adopted on 27 June 2023.

<sup>13</sup> These are: a) sustainable use and protection of water and marine resources; b) transition to a circular economy; c) pollution prevention and control; and d) protection and restoration of biodiversity and ecosystems.

<sup>14</sup> Article 2(17) SFDR.

- investee companies follow good governance practices.

11. The SFDR foresees specific transparency requirements for two types of financial products:

a) financial products that promote environmental or social characteristics provided that the companies in which the investments are made follow good governance practices<sup>15</sup>. These are the products disclosing under Article 8 SFDR; and

b) financial products that have sustainable investment as their objective<sup>16</sup>. These are the products disclosing under Article 9 SFDR.

12. The details of the content and presentation of the information in relation to the principle of DNSH are further specified in [Commission Delegated Regulation \('CDR'\) 2022/1288](#). Recital 22 of CDR 2022/1288 explains that the DNSH principle is particularly important for financial products that have sustainable investments as their objective, i.e. those reporting under Article 9 SFDR. This principle is also relevant for financial products that promote environmental or social characteristics where those financial products make sustainable investments, i.e. those products disclosing under Article 8 SFDR. In this regard, financial products which partly make sustainable investments or financial products that have sustainable investments as their objective should provide information in relation to the DNSH principle. Therefore, the application of this principle is relevant for financial products disclosing under Article 9 and financial products disclosing under Article 8, to the extent that they make sustainable investments. In that case the DNSH principle applies only to the sustainable investments.

#### *DNSH disclosures at financial product level*

13. The disclosures relating to the DNSH principle should explain how the indicators for adverse impacts have been taken into account<sup>17</sup>. These are a set of climate, environment-related and social and employee, respect for human rights, anti-corruption and anti-bribery matters indicators<sup>18</sup>, which are called Principal Adverse Impact ('PAI') indicators and are included in Annex I of CDR 2022/1288<sup>19</sup>. Moreover, given the close link of the SFDR DNSH disclosures to the TR, they should also include additional information on the alignment of the investments with the minimum safeguards set out in the TR<sup>20</sup>. For the sake of clarity, the PAI indicators should not be mistaken for the DNSH TSC under the TR, which as explained in the previous section, are granular, science-based criteria per economic activity.

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<sup>15</sup> Article 8, SFDR.

<sup>16</sup> Article 9 SFDR.

<sup>17</sup> Recital 22 CDR 2022/1288.

<sup>18</sup> For instance, GHG intensity, emissions to water, board gender diversity etc. for investee companies.

<sup>19</sup> The mandatory PAI indicators are included in Table 1 of [Annex I](#) whereas Tables 2 and 3 of Annex I include additional PAI indicators that could be relevant for the application of the DNSH principle (CDR [2022/1288](#)).

<sup>20</sup> Article 18 TR specifies the minimum safeguards that should be complied with under Article 3(c) TR with reference to the following documents: OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights, including the principles and rights set out in the eight fundamental conventions identified in the Declaration of the International Labour Organisation on Fundamental Principles and Rights at Work and the International Bill of Human Rights.

14. CDR 2022/1288 sets out specific DNSH information requirements for financial products' pre-contractual<sup>21</sup> and periodic<sup>22</sup> disclosures as well as for website<sup>23</sup> disclosures. FMPs are required to answer specific questions to explain how the PAI indicators were taken into account for DNSH purposes and how the sustainable investments were aligned with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights. Moreover, in the case of financial products disclosing under Article 8, FMPs are required to include the standardised statement about DNSH referred to in Article 6 TR<sup>24</sup>.
15. The ESAs specify<sup>25</sup> that due to Article 2a of the Level 1 SFDR framework, the use of PAI indicators is mandatory to demonstrate that a sustainable investment complies with the DNSH principle. The PAI indicators to be used are the ones in Table 1 of Annex 1 and any relevant indicators in Tables 2 and 3 of Annex I of CDR 2022/1288. At the same time the disclosures required under Articles 4 and 7 SFDR contain references to how the financial market participant or financial product considers the principal adverse impacts of its investment decisions on sustainability factors at entity level<sup>26</sup> or at financial product level<sup>27</sup>. To provide clarity to investors, the ESAs explained in their statement<sup>28</sup> that using PAI indicators to comply with the DNSH principle under SFDR should not be mistaken with the disclosures required by Articles 4 and 7 SFDR.
16. Moreover, under a clarification provided in a Commission FAQ<sup>29</sup> investments in 'environmentally sustainable' economic activities (i.e. Taxonomy-aligned economic activities) can be automatically qualified as 'sustainable investments' in the context of the product level disclosure requirements under the SFDR. However, for investments in an undertaking with some degree of taxonomy-alignment through a funding instrument that does not specify the use of proceeds, FMPs would still need to check additional elements under the SFDR to consider the whole investment in that undertaking as sustainable investment, including the SFDR DNSH principle.

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<sup>21</sup> Annexes II and III include the templates for pre-contractual disclosures for Article 8 and Article 9 financial products, respectively.

<sup>22</sup> Annexes IV and V include the templates for periodic disclosures for Article 8 and Article 9 financial products, respectively.

<sup>23</sup> Article 26 of CDR 2022/1288 specifies the website DNSH information requirement for financial products that promote environmental or social characteristics, whereas Articles 37 and 39 of CDR 2022/1288 set out the DNSH website disclosures for financial products that have sustainable investment as their objective.

<sup>24</sup> 'The "do no significant harm" principle applies only to those investments underlying the financial product that take into account the EU criteria for environmentally sustainable economic activities. The investments underlying the remaining portion of this financial product do not take into account the EU criteria for environmentally sustainable economic activities.

<sup>25</sup> Q&A IV.22, [Consolidated questions and answers on the SFDR and the CDR 2022/1288](#).

<sup>26</sup> These are the disclosures pursuant to Article 4(1)(a), 4(3) or 4(4) SFDR.

<sup>27</sup> These are the disclosures required under Article 7 SFDR.

<sup>28</sup> [Clarifications on the ESAs' draft RTS under SFDR](#), paragraph 47, Ref: JC 2022 23 | 2 June 2022.

<sup>29</sup> [Commission Notice on the interpretation and implementation of certain legal provisions of the EU Taxonomy Regulation and its link to the Sustainable Finance Disclosure Regulation \(SFDR\)](#), June 2023.

*PAI disclosures at entity and financial product level*

17. At the entity level, SFDR requires transparency of adverse sustainability impacts on a comply or explain basis<sup>30</sup>. FMPs above the 500 employees' thresholds are required to publish on their websites a statement on due diligence policies with respect to principal adverse impacts of investment decisions on sustainability factors<sup>31</sup> where those impacts are considered. The content of this statement is specified in Annex I, Table 1 of CDR 2022/1288 which sets out a list of mandatory PAI indicators, while Tables 2 and 3 of the same Annex set out a number of additional PAI indicators.

18. To provide clarity on the different types of disclosures required under the SFDR, the ESAs explained in the clarifications published in advance of the adoption of CDR 2022/1288<sup>32</sup> that there are two types of disclosures which apply independently<sup>33</sup>:

A. Disclosures on DNSH for financial products that make sustainable investments: Where a financial product makes sustainable investments, there is a requirement for disclosures in relation to DNSH checks. This is because DNSH is a criterion in the definition of sustainable investment in Article 2(17) SFDR. For the DNSH disclosures the requirement is to take into account the PAI indicators in order to show that the sustainable investments do not significantly harm any environmental or social objective<sup>34</sup>.

B. PAI disclosures at entity and financial product level for all investments: The PAI disclosures at financial product level referred to in Article 7<sup>35</sup> SFDR and the disclosures at entity level under Article 4<sup>36</sup> SFDR apply separately. These disclosures should not be mistaken with the DNSH disclosures for financial products that make sustainable investments. The ESAs clarified<sup>37</sup> that disclosures for financial products' sustainable investments (including the DNSH disclosures) should not be mistaken with the PAI disclosures required by Articles 4 and 7 SFDR that set out transparency requirements on adverse sustainability impacts at entity and product level. These PAI disclosures should contain references to how the FMP or financial product considers the principal adverse impacts of its investment decisions on sustainability factors. They should not be confused with the DNSH disclosures which require a description of how the PAI indicators are taken into account to describe how the investments do not significantly harm any environmental or social objective. For disclosures under Article 4 SFDR, that PAI consideration is done by the publication of a statement on the principal adverse impacts of investment decisions on sustainability factors with reference to the indicators in Annex I of CDR 2022/1288<sup>38</sup>

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<sup>30</sup> Article 4 (1) (a) and (b) SFDR.

<sup>31</sup> Article 2(24) SFDR defines sustainability factors as meaning "environmental, social and employee matters, respect for human rights, anti-corruption and anti-bribery matters".

<sup>32</sup> [Clarifications on the ESAs' draft RTS under SFDR](#), paragraph 47, Ref: JC 2022 23 | 2 June 2022.

<sup>33</sup> Idem, paragraph 47.

<sup>34</sup> Article 22(c)(i) of CDR 2022/1288.

<sup>35</sup> Article 7 SFDR sets out transparency requirements on adverse sustainability impacts at financial product level.

<sup>36</sup> Article 4 SFDR sets out transparency requirements on adverse sustainability impacts at entity level.

<sup>37</sup> [Clarifications on the ESAs' draft RTS under SFDR](#), paragraph 45, Ref: JC 2022 23 | 2 June 2022.

<sup>38</sup> Idem, paragraph 45.



(whereas for product level PAI disclosure under Article 7 SFDR there are no Level 2 requirements).

19. Annex II of this paper includes a list of documents that provide guidance on the application of the DNSH principle under SFDR.
20. Lastly, the [ESAs' consultation paper<sup>39</sup>](#) on the review of CDR 2022/1288 contains a number of questions in relation to the SFDR DNSH regime. The ESAs will consider the feedback from the public consultation and carry out further analysis in order to finalise their proposals for the review of CDR 2022/1288 and submit them to the Commission.

### **2.3 Benchmarks Regulation (BMR) – EU Climate Transition and Paris-aligned benchmarks**

21. The DNSH concept is prescribed in the Benchmark Regulation ('BMR') and is reflected in the requirements to exclude certain underlying assets from the benchmark portfolio. In particular, the BMR defines EU Climate Transition benchmarks ('CTB')<sup>40</sup> and EU Paris-aligned benchmarks ('PAB')<sup>41</sup> as benchmarks that select, weigh or exclude underlying assets in such a manner that the resulting benchmark portfolio is on a decarbonisation trajectory for CTBs and for PABs aligned with the objectives of the Paris Agreement. Additionally, PABs are defined as benchmarks in which the activities relating to the underlying assets should not significantly harm other environmental, social and governance (ESG) objectives<sup>42</sup>, while the same requirement applies to administrators of CTBs<sup>43</sup>.
22. Moreover, in accordance with the empowerment set out in Article 19a(2) BMR, CDR 2020/1818<sup>44</sup> specifies the companies that should be excluded because they operate in sectors that do not have measurable carbon emission reduction targets with specific deadlines that are aligned with the objectives of the Paris Agreement. These are:
  - (a) companies involved in any activities related to controversial weapons;
  - (b) companies involved in the cultivation and production of tobacco;
  - (c) companies that benchmark administrators find in violation of the United Nations Global Compact ('UNGC') principles or the Organisation for Economic Cooperation and Development ('OECD') Guidelines for Multinational Enterprises;
  - (d) companies that derive 1 % or more of their revenues from exploration, mining, extraction, distribution or refining of hard coal and lignite;

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<sup>39</sup> [Joint Consultation Paper on the review of the SFDR Delegated Regulation regarding PAI and financial product disclosures](#), Ref.: JC 2023 09 | 12 April 2023.

<sup>40</sup> Article 3(23a)(a) of [Regulation 2016/1011 as amended by Regulation \(EU\) 2019/2089](#) (BMR).

<sup>41</sup> Article 3(23b)(a) BMR.

<sup>42</sup> Article 3(23b)(c) BMR.

<sup>43</sup> Article 19b(iv) BMR.

<sup>44</sup> Article 12 [CDR 2020/1818](#).

(e) companies that derive 10 % or more of their revenues from the exploration, extraction, distribution or refining of oil fuels;

(f) companies that derive 50 % or more of their revenues from the exploration, extraction, manufacturing or distribution of gaseous fuels;

(g) companies that derive 50 % or more of their revenues from electricity generation with a GHG intensity of more than 100 g CO<sub>2</sub> e/kWh.

23. Additionally, companies that are found or estimated to significantly harm one or more of the environmental objectives in the TR are excluded from PABs<sup>45</sup>.

24. Under CDR 2020/2018 some of the aforementioned exclusions apply to CTBs, notably exclusions of companies involved in controversial weapons, tobacco cultivation and production, violations of UNGC and OECD Guidelines for Multinational Enterprises as well as companies that significantly harm the EU Taxonomy environmental objectives<sup>46</sup>.

## 2.4 Overview of the DNSH principle under TR, SFDR and BMR

25. The following table aims at providing a comparative overview of the key aspects of the DNSH principle under the TR, SFDR and BMR.

	<b>Taxonomy Regulation (TR)</b>	<b>Sustainable Finance Disclosures Regulation (SFDR)</b>	<b>Benchmarks Regulation (BMR)</b>
<b>Who should apply the DNSH principle?</b>	Financial and non-financial undertakings which fall within scope of TR Article 8, i.e. undertakings required to publish a non-financial statement.	FMPs making available financial products making sustainable investments within scope of the SFDR <sup>47</sup> .	Administrators of EU Climate Transition Benchmarks (CTBs) and EU Paris-aligned Benchmarks (PABs).
<b>In which situations should the DNSH principle be applied?</b>	The DNSH principle is applied when assessing whether an economic activity is environmentally sustainable	FMPs apply the DNSH principle when assessing whether sustainable investments of financial products comply with DNSH principle enshrined in the	The DNSH principle relates to the criteria for excluding underlying assets from the benchmark portfolio of EU CTBs and EU PABs.

<sup>45</sup> Article 12(2) BMR.

<sup>46</sup> Article 19b(iv) BMR.

<sup>47</sup> Article 2(12) SFDR sets out a list of financial products.



	<p>(‘taxonomy-aligned’).</p> <p>As part of this assessment undertakings need to determine whether an economic activity does not significantly harm any of the environmental objectives set out in TR.</p> <p>Undertakings also should adhere to the SFDR DNSH principle when implementing the procedures to ensure that an economic activity is carried out in compliance with minimum safeguards<sup>48</sup>.</p>	<p>definition of ‘sustainable investment’.</p>	<p>In addition, PABs administrators are required to ensure that the activities relating to the underlying assets do not significantly harm other ESG objectives.</p>
<p><b>What does the application of the DNSH principle entail?</b></p>	<p>To apply the DNSH principle undertakings are required to assess that the DNSH TSC for that economic activity are met.</p>	<p>The DNSH principle entails assessing whether an investment in an economic activity that contributes substantially to an environmental or social objective does not significantly harm any environmental or social objectives. This is done by taking into account the PAI indicators in Table 1 of Annex I of CDR 2022/1288 and any relevant PAI indicators in Tables 2 and 3</p>	<p>The exclusion of underlying assets (as well as their selection and weighting) should result in CTB benchmark portfolios that are on a decarbonisation trajectory and PAB benchmark portfolios that are aligned with the objectives of the Paris Agreement.</p>

<sup>48</sup> Article 18 TR.

		of Annex I of CDR 2022/1288.	
<p><b>Does the framework contain specific criteria for the application of the DNSH principle?</b></p>	<p>The Commission developed sector-specific and science-based criteria, i.e. the TSC in accordance with the TR.</p> <p>These are set out in the Climate Delegated Act and the Complementary Climate Delegated Act<sup>49</sup> for the two climate environmental objectives and the ‘Environmental Delegated Act’ for the remaining four environmental objectives.</p>	<p>With regards to sustainable investments FMPs should disclose how those investments do not cause significant harm to any environmental or social sustainable investment objective. In this context, they should disclose how the indicators for adverse impacts on sustainability factors have been taken into account as well as how the sustainable investments are aligned with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights.</p> <p>The ESAs specify<sup>50</sup> that the use of PAI indicators is mandatory to demonstrate that an investment qualifies as a sustainable investment. The PAI indicators cover environmental and social sustainable objectives.</p>	<p>For PABs the companies that should be excluded are the ones that operate in sectors that do not have measurable carbon emission reduction targets with specific deadlines that are aligned with the objectives of the Paris Agreement. These sectors are specified in CDR 2020/1818.</p> <p>For CTBs the exclusions that apply relate to companies involved in a) controversial weapons; b) tobacco cultivation and production; c) violations of UNGG and OECD Guidelines for Multinational Enterprises</p> <p>Companies that are found or estimated to significantly harm one or more of the environmental objectives in the TR are excluded from</p>

<sup>49</sup> CDR 2021/2139 ([‘Climate Delegated Act’](#)) and CDR 2022/1214 ([‘Complementary Climate Delegated Act’](#)) covering certain gas and nuclear activities.

<sup>50</sup> [Consolidated questions and answers on the SFDR and the CDR 2022/1288](#), Q&A IV.22.

			both CTBs and PABs.
<b>Do the DNSH criteria refer to specific targets or thresholds?</b>	The DNSH TSC refer to specific targets or thresholds or specific requirements which should be met when the economic activity is carried out.	The PAI indicators that are used for the application of the DNSH principle are not associated with specific targets.	The criteria refer to the exclusion of companies operating in specific sectors or violating specific international conventions.
<b>What is the scope of application of the DNSH principle</b>	The DNSH principle is applied at the economic activity level and should cover all economic activities that are taxonomy-eligible, i.e. economic activities for which TSC have been developed.	The DNSH principle applies to any sustainable investments.	The exclusions are applied to the underlying assets of the benchmark portfolio, i.e. at company level.
<b>Are there situations where the DNSH criteria in the three sectorial legislations (TR, SFDR, BMR) interact?</b>		The Commission clarified <sup>51</sup> that investments in 'environmentally sustainable' economic activities under the TR can be automatically qualified as 'sustainable investments' in the context of the product level disclosures under SFDR. This means that investments in specific economic activities can be considered to be sustainable investments.  However, for investments in an undertaking with some	

<sup>51</sup> [Commission Notice on the interpretation and implementation of certain legal provisions of the EU Taxonomy Regulation and its link to the Sustainable Finance Disclosure Regulation \(SFDR\)](#), June 2023.

		<p>degree of taxonomy-alignment through a funding instrument that does not specify the use of proceeds, FMPs would still need to check the SFDR DNSH principle.</p> <p>In the case of financial products disclosing under Article 9(3) SFDR which passively track PABs or CTBs the Commission explained in a Q&amp;A<sup>52</sup> that those products are deemed to be making sustainable investments and as such would not be required to apply the SFDR DNSH requirements.</p>	
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<sup>52</sup> [Consolidated questions and answers on the SFDR and the CDR 2022/1288](#), Q&A V.9.

## Annex I –Commission FAQ documents on the TR

The list below includes FAQ documents published by the Commission providing guidance on the application of the Taxonomy Regulation:

April 2021

- [What is the EU taxonomy and how will it work in practice?](#)

July 2021

- [What is the EU taxonomy Article 8 Delegated Act and how will it work in practice?](#)

December 2021

- [How should financial and non-financial undertakings report taxonomy-eligible economic activities and assets in accordance with the Taxonomy Regulation Article 8 Disclosures Delegated Act?](#)

February 2022

- [Commission Notice on the interpretation of certain legal provisions of the Taxonomy Regulation Article 8 Disclosures Delegated Act on the reporting of eligible economic activities and assets](#)
- [FAQ on the Taxonomy Complementary Climate Delegated Act](#)

December 2022

- [Draft Commission Notice on the interpretation and implementation of certain legal provisions of the EU Taxonomy Climate Delegated Act establishing technical screening criteria for economic activities that contribute substantially to climate change mitigation or climate change adaptation and do no significant harm to other environmental objective](#)
- [Draft Commission Notice on the interpretation and implementation of certain legal provisions of the Disclosures Delegated Act under Article 8 of EU Taxonomy Regulation on the reporting of Taxonomy-eligible and Taxonomy-aligned economic activities and assets](#)

June 2023

- [Commission Notice on the interpretation and implementation of certain legal provisions of the EU Taxonomy Regulation and its link to the Sustainable Finance Disclosure Regulation \(SFDR\)](#)

It is possible to search for Q&As and navigate through the documents via the [Commission FAQs repository](#).

## **Annex II –FAQ documents from the Commission and the ESAs on the SFDR**

The list below includes documents with guidance from the ESAs and the Commission regarding, amongst other topics, the application of the DNSH principle under the SFDR:

- [Clarifications on the ESAs' draft RTS under SFDR](#), Ref: JC 2022 23 | 2 June 2022;
- [Consolidated questions and answers](#) (Q&A) on the SFDR (Regulation (EU) 2019/2088) and the SFDR Delegated Regulation (Commission Delegated Regulation (EU) 2022/1288), Ref.: JC 2023 18 | 17 May 2023;
- [Commission decision of 5.4.2023](#) on the answers to be provided to questions requiring the interpretation of Union law submitted on 9 September 2022 by the European Supervisory Authorities under Article 16b(5) of Regulations (EU) No 1093/2010, (EU) No 1094/2010 and (EU) No 1095/2010 of the European Parliament and of the Council, and amending Commission Decisions of 6 July 2021 and 13 May 2022
  - o [Annex I](#)
  - o [Annex II](#)