

DUFAS response to the public consultation on the draft amendments to the Climate Delegated Act under the EU Taxonomy Regulation

14 April 2026

The Dutch Fund and Asset Management Association (DUFAS) welcomes the opportunity to comment on the draft proposal to amend the Climate Delegated Act and annexes. Our response focuses on several areas where we see clear improvements, as well as a number of concerns regarding the level of ambition and the robustness of the “do no significant harm” (DNSH) criteria.

Summary of our response

In our response, we signal support for several important improvements:

- The stricter DNSH framework for biodiversity, in particular the clarification that activities requiring compensatory measures (offsets) can no longer meet DNSH.
- The strengthened circular economy criteria for plastic packaging, including ambitious recycled content targets, design for recyclability requirements and the exclusion of certain hazardous additives.
- The new safeguard that prevents new buildings from being constructed on wetlands, peatlands, permanent grassland in Natura 2000 sites and forest land.

At the same time, our response contains key recommendations in the following areas:

- The relaxation of the DNSH framework for hazardous substances and SVHCs in Appendix C (the 0.1% threshold, reliance on “controlled conditions”, and the absence of a clear phase out trajectory).
- The risk of under reporting physical climate risks in the DNSH process for climate adaptation (screening followed by a full assessment only where “significant risk” is identified).
- Biodiversity gaps in real estate, notably the absence of explicit biodiversity DNSH criteria for renovation activities and the lack of explicit reference to primary forests.
- The more permissive treatment of transport assets used to carry fossil fuels, given that only assets “exclusively designed for the exclusive transport of pure fossil fuels” are now excluded.
- The high data and administrative burden for SMEs and non listed companies, and the need for more standardised indicators, greater reliance on existing documentation, and clearer guidance on application outside the EU.

1. Positive developments

1.1. Biodiversity: compensatory measures and DNSH

We welcome the changes to the DNSH criteria for biodiversity, in particular the treatment of compensatory measures (offsets). The revised framework ensures that activities which require compensatory measures to offset significant negative impacts on habitats or species automatically fail the DNSH criteria for biodiversity.

This approach is reflected in the revised Appendix D to Annexes I, II and III, which specifies that activities requiring compensatory measures to offset significant negative impacts identified in an assessment do not comply with DNSH.

We support this strict interpretation, which provides a clear signal that activities causing significant biodiversity loss, even if compensated elsewhere, cannot be considered environmentally sustainable.

1.2. Circular economy: plastic packaging criteria

We welcome the stronger circular economy criteria for plastic packaging. In particular, we welcome:

- ambitious recycled content targets for different types of packaging;
- requirements for design for recyclability in practice and at scale;
- the prohibition of certain hazardous additives in plastic packaging.

These elements are laid down in Annex II, Section 1.1 (“Manufacture of plastic packaging goods”), which sets quantitative recycled-content thresholds over time, recyclability conditions linked to the new packaging framework, and a long list of hazardous substance categories that must not be added to the feedstock.

These criteria are well aligned with the EU’s circular economy and plastics objectives and send a strong signal to both manufacturers and investors.

1.3. Construction and real estate: protection of sensitive land

We also welcome the new requirement that new buildings cannot be built on wetlands, peatlands, permanent grassland in Natura 2000 sites, or forest land. This is an important step towards avoiding the conversion of high-biodiversity and high-carbon ecosystems.

These safeguards represent a significant improvement compared to the previous framework.

2. Concerns and suggested clarifications

2.1. DNSH to pollution prevention and control: SVHCs and hazardous substances (Appendix C)**

We are concerned that the revised wording on chemicals in Appendix C weakens the level of ambition for pollution prevention and control.

2.1.1. Use of SVHCs above 0.1% with “controlled conditions”

The new Appendix C allows the manufacture, placing on the market or use of substances of very high concern (SVHCs) above 0.1% w/w, provided that the substances have been identified under Article 59 of REACH for at least 18 months and are not on Annex XIV, and that the operator documents that they are used under controlled conditions and that exposure and emissions are minimised as far as practically possible.

This change is introduced in the new point 7 of Appendix C (to Annexes I, II and III), which replaces the previous blanket exclusion based on essentiality with a 0.1% threshold combined with documented “controlled conditions”.

We see this as a major shift. Previously, the Taxonomy wording was closer to a de facto phase-out of non-essential uses of highly hazardous substances. Under the new approach, many more SVHCs will be compatible with Taxonomy-aligned activities, as long as operators can demonstrate “controlled conditions”.

We are also concerned that in practice this will largely rely on operators’ self-assessment and self-documentation. This introduces a significant risk of divergent interpretations of what counts as “controlled conditions” and what it means to minimise exposure “as far as practically possible”.

2.1.2. Lack of a clear phase-out trajectory for SVHCs

The new wording does not provide for a clear phase-out of SVHCs. Operators are asked to “assess and implement practicable possibilities” to avoid or minimise the use of SVHCs at the design stage of products, in a way proportionate to their size and complexity.

This formulation replaces the earlier, stricter framing around “essential for society”, and does not require a time-bound substitution plan or phase-out.

This represents a lower level of ambition compared to the previous framework and risks turning DNSH into mainly a documentation exercise, rather than driving a progressive reduction of SVHC use in Taxonomy-aligned activities.

2.1.3. 2.Explicit DNSH restriction for endocrine disruptors, PBTs and PMTs beyond existing legislation

We also note that there is still no explicit DNSH requirement addressing endocrine disruptors (EDs), PBTs and PMTs beyond what is already regulated under the CLP and REACH frameworks.

The revised Appendix C explicitly aligns DNSH with existing chemicals legislation (e.g. REACH Annex XIV/XVII, CLP classifications, the POPs Regulation, the Mercury Regulation and the Ozone-depleting substances Regulation), but it does not introduce Taxonomy-specific restrictions for EDs, PBTs or PMTs where formal classification or restriction has not yet taken place.

Given that regulatory updates can lag behind scientific understanding, we are concerned that this leaves potentially hazardous substances insufficiently addressed under DNSH.

2.2. Climate adaptation DNSH (Appendix A)

Regarding the DNSH criteria for climate change adaptation, we can support the basic process design in Appendix A: an initial screening, followed by a full climate risk assessment only where the screening indicates potential significant risks.

Appendix A sets out a four-step process – screening, climate risk assessment, adaptation plan and implementation – with the full risk assessment required only if the initial screening identifies potential significant impacts on the activity.

At the same time, we see a risk that this approach could be too permissive in practice, as it relies heavily on operators' own screening. There is a real possibility that companies may under-identify or under-report material physical climate risks at this stage, especially where expertise or incentives to disclose such risks are limited.

We would therefore encourage the Commission, when finalising the criteria and preparing guidance, to pay particular attention to this risk of under-reporting in the screening phase.

2.3. Biodiversity safeguards in real estate and renovations

We welcome the improved biodiversity safeguards for new construction, but we see two important issues that merit attention.

2.3.1. Net positive biodiversity impact where compensatory measures are used

Where compensatory measures for biodiversity are used, we consider it important that the requirement explicitly aims for a net positive biodiversity impact, not just compensation of losses.

While the revised Appendix D clarifies that activities requiring compensatory measures do not comply with DNSH, compensatory measures may still occur in practice in the context of national permitting or sector-specific frameworks. In such situations, a clear expectation of "net positive" impact would provide a stronger safeguard than "no net loss".

2.3.2. Renovations: lack of biodiversity DNSH

For renovations (Annex II, Section 3.2), biodiversity-related DNSH is currently not listed.

In the revised Section 3.2 on renovation of existing buildings, DNSH criteria are explicitly provided for climate mitigation, climate adaptation, water and pollution/chemicals, while biodiversity and ecosystems are marked "N/A".

We consider this a gap, as renovations – especially large-scale or structural renovations – can also affect biodiversity and ecosystems, for example through associated works, land take or changes in landscaping.

2.4. Transport: treatment of fossil-fuel-related activities

We are concerned about the changes in how transport activities linked to fossil fuels are treated.

Previously, the criteria excluded vessels that are “dedicated to the transport of fossil fuels”. The new wording refers to vehicles, vessels, trains and wagons that “had not been exclusively designed for and have not been retrofitted for the exclusive transport of pure fossil fuels”.

In the transport-related circular economy sections of Annex II (Sections 5.1–5.5), the revised DNSH criteria for climate mitigation use the narrower formulation that vehicles, vessels, trains and wagons must not have been “exclusively designed for” and must not have been retrofitted for the “exclusive transport of pure fossil fuels”.

We are concerned that this allows multi-purpose vessels or vehicles that in practice mostly carry fossil fuels, but could carry other goods, to qualify as Taxonomy-aligned. This would be a substantial relaxation compared to the earlier “not dedicated” wording and risks blurring the distinction between decarbonised transport and transport that remains strongly tied to fossil fuel value chains.

2.5. Forests, wetlands and primary forests

Finally, we note that, while forests and wetlands are mentioned in the recitals and protected to some extent in the technical criteria, primary forests are not explicitly and consistently covered in the safeguards.

The revised criteria for construction and real estate exclude wetlands, peatlands, permanent grassland in Natura 2000 and forest land from new buildings. However, primary forests are not explicitly singled out as a high-risk category under the biodiversity DNSH criteria, despite their particular importance for biodiversity and carbon storage.

We consider this a high-risk omission and would welcome explicit recognition and protection of primary and old-growth forests in the final text or guidance.

3. Data availability and administrative burden

In practice, many clients – especially SMEs and non-listed companies – have limited resources to produce detailed evidence on technical screening criteria and minimum safeguards. This raises concerns about data availability and administrative burden. At the same time, robust and reliable information is necessary to ensure that the strengthened DNSH criteria (for example on hazardous chemicals, biodiversity safeguards and climate risk management) are effective in practice.

We believe that:

- clearer and more standardised indicators, and
- the possibility to rely on existing documentation (such as permits, licences and sustainability reports),

would significantly improve usability and reduce the administrative burden for both clients and financiers. The key is to make data needs as standardised, proportionate and interoperable as possible, so that especially smaller entities can comply without having to build complex new reporting systems.

This is consistent with the objective stated in the explanatory memorandum and recitals of the draft Delegated Act, which seek to simplify criteria and align them more closely with existing Union law, precisely to reduce complexity and improve workability in practice.

We therefore encourage the Commission to make maximum use of standardised indicators and to explicitly allow reliance on existing documentation wherever possible.

4. Conclusion

We welcome several important improvements in the draft Delegated Act, including:

- the stricter treatment of biodiversity compensatory measures in DNSH;
- the strengthened circular economy criteria for plastic packaging;
- the new safeguards preventing construction on wetlands, peatlands, permanent grassland in Natura 2000 and forest land.

At the same time, we are concerned that the revised criteria in some areas may lower the level of ambition or leave important gaps, notably with regard to hazardous chemicals and SVHCs, the robustness of the climate adaptation DNSH screening process, biodiversity safeguards for renovations and primary forests, and the treatment of transport assets closely linked to fossil fuels. We also highlight practical challenges around data availability and administrative burden, especially for SMEs and non-listed companies.

DUFAS: Dutch Fund and Asset Management Association

Since 2003, DUFAS has been committed to a healthy asset management sector in the Netherlands. DUFAS has more than 50 members: from large asset managers who invest Dutch pension and insurance assets to smaller, specialist asset managers. DUFAS increases awareness of the social relevance of investing, helps to develop sector standards and represents the sector in the implementation of new laws and regulations. In addition, DUFAS is committed to a single European market with equal regulations.

More information

Would you like to respond, or should you have any questions? Please feel welcome to e-mail Ron Gruijters, DUFAS manager sustainable finance, at rg@dufas.nl.