

FEEDBACK ON THE SIMPLIFICATION OF THE TECHNICAL SCREENING CRITERIA IN THE EU TAXONOMY'S CLIMATE AND ENVIRONMENTAL DELEGATED ACTS

The Japan Business Council in Europe (JBCE) welcomes the opportunity to submit its opinion regarding the “Do No Significant Harm” (DNSH) principle. We submitted our initial opinion on DNSH during the EU Taxonomy Stakeholder consultation in 2023.

JBCE very much welcomes the adoption of the Delegated Act on 4th July 2025, which makes the DNSH requirement (d) align with the requirement of the RoHS Directive. Furthermore, the deletion of the requirement (g) will help avoid market confusion caused by differences in CLP classification among manufacturers. Our understanding is that these Delegated Act reflect the situation within the industry.

However, there are still some points which would require further amendment to solve some complexities and alignment gaps between various EU legislation. JBCE would like to point these out and contribute to sustainable finance in EU.

First, JBCE would like to highlight the importance of ensuring consistency between the EU Taxonomy and other EU legislation, particularly the Net Zero Industry Act (NZIA).

Net zero technologies should be fully recognised under the EU Taxonomy. As Taxonomy is intended to facilitate investment in activities that contribute to the EU's six environmental objectives, its scope should ensure coherence with the NZIA, particularly in the recognition of the economic activities associated with net-zero technologies listed in the NZIA Annex, so that these activities can be properly assessed under the Technical Screening Criteria.

For heat pumps specifically, not all products fall under the current energy label scheme. As a result, certain models with similar performance are treated differently.

For example:

- A 69 kW heat pump can qualify because the energy label applies up to 70 kW.
- A 71 kW heat pump, despite having equivalent performance, is excluded from eligibility. This inconsistency creates unnecessary market fragmentation and should be addressed to ensure fair treatment and investment clarity for net-zero technologies.

Second, JBCE proposes the following amendments to Appendix C DNSH Criteria (f) under the EU Taxonomy. We believe these revisions would help maintain effective supply chain management, reduce excessive burdens and uncertainties, and ensure an appropriate

balance between promoting sustainable investment and achieving environmental regulatory objectives.

- Clarification of definition: the phrase “*no other suitable alternative substances or technologies are available on the market*” from requirement (f) is unclear. It should be clarified or deleted;
- Clarification of process: the requirements regarding “*assessment and documentation*,” including the responsible actors, procedures, and the necessary level of evidence are not clear. They should be clarified or deleted;
- Harmonisation with REACH obligations: The requirement for Substances of Very High Concern (SVHC) under DNSH does not align with the requirement for SVHC under the REACH Regulation. The requirement under DNSH should be consistent with the REACH Regulation.

1. Clarification of definition: Requirement concerning “*no other suitable alternative substances or technologies are available on the market*”

The term “*suitable alternative substances or technologies*” is not clearly defined in the current criteria.

Even if theoretical alternatives exist, they cannot be considered practically substitutable unless the final product using such alternatives ensures equivalent performance, safety, quality, and relevant industry certifications.

Given the diversity and complexity of these factors, establishing a uniform criterion of “*suitable alternatives*” is extremely difficult in practice.

Furthermore, stakeholders - including EU importers and distributors - face significant challenges in obtaining information on potential alternative substances or technologies by tracing back complex global supply chains. Upstream suppliers may not possess such information, and business relationships may restrict access to it. As a result, fulfilling this requirement imposes a disproportionate burden, particularly on SMEs.

2. Clarification of process: Requirements related to assessment and documentation

The “*assessment*” and “*documentation*” required for compliance with (f) are not sufficiently defined in terms of scope, methodology, and level of evidence needed. Moreover, there is no clear indication of which actor within the supply chain is responsible for conducting such assessment or providing such documentation, leading to uncertainty and operational confusion.

When granting exemptions under the RoHS Directive, one of the evaluation criteria used by the European Commission is whether the substitution is scientifically or technically practical (Article 5.1(a) elimination or substitution via design changes or materials and components which do not require any of the materials or substances listed in Annex II is scientifically or technically impracticable). The fact

that the European Commission is taking a long time to complete this evaluation shows that it is extremely difficult to evaluate substitutions in practice.

3. Harmonisation with REACH obligations: requirement for SVHCs (substances on the Candidate List)

Under REACH, SVHCs are designated as substances of very high concern that may become subject to authorization in the future. Economic operators are encouraged to voluntarily consider alternatives, however, SVHCs are not prohibited from being used or placed on the market. The purpose of the SVHC framework is to enhance information sharing and risk awareness, not to impose “*immediate market removal*.” In contrast, the Taxonomy DNSH criteria require the absence of SVHCs, resulting in a restriction that goes beyond the framework and intention of the REACH Regulation.

Currently, 251 substances are listed as SVHCs, with new substances added every six months.

This requires stakeholders to conduct continuous screening and initiate supply chain surveys whenever additions occur. However, in complex and international supply chains, responding promptly to such additions is often impractical and imposes an excessive burden on companies, especially SMEs.

Complete elimination of SVHCs is often not feasible under current supply chain conditions, particularly for complex articles. Consequently, even companies providing products that contribute to environmental protection may face difficulties in demonstrating DNSH compliance solely due to the presence of traces of SVHCs, facing the risk of being excluded from sustainable investment opportunities. This is not in line with the purpose of sustainable finance.

ABOUT JBCE

Founded in 1999, the Japan Business Council in Europe (JBCE) is a leading European organisation representing the interests of over 110 multinational companies. Our members operate across a wide range of sectors, including information and communication technology, electronics, chemicals, automotive, machinery, wholesale trade, precision instruments, pharmaceuticals, textiles, and glass products.

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