



Frankfurt,
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BVI's¹ response to the EC consultation on revised European sustainability-reporting standards

As users of ESG data, BVI members highly value the benefits of standardised sustainability reporting under the ESRS. Data reported by companies is more accurate, timely and low-cost for investors than information obtained from commercial ESG data vendors and more reliable due to the assurance requirement. Reporting standards ensure comparability of ESG disclosures and are an important factor for informed investment decisions.

Nonetheless, being also affected as preparers of sustainability reports, we subscribe to the need for reducing complexity and onerousness of the ESRS application by cutting down data points not deemed decision-relevant, simplifying the materiality assessment process and providing further guidance for application. On balance, we thus **welcome and support the ESRS revision** as brought forward by the EU Commission.

Most positive from the asset management perspective is the proposed **clarification on relevance of assets managed on behalf of clients subject to a fiduciary duty for the materiality assessment** (ESRS 1, AR 17 and 37). This welcome clarification acknowledges the fundamental difference between the business model of banks and insurance companies who take the risk of their services on their own books and the agency business operated by asset managers. This means that asset managers act in a fiduciary capacity as agents of their clients (through funds or mandates), conducting investments on behalf of their clients without acquiring legal or economic ownership. To this extent:

- Investments conducted on behalf of clients (assets under management, AuM) do not appear on the asset manager's balance sheets;
- Investment allocations within the AuM are subject to a fiduciary duty, with constraints and exogenous factors not being under the asset manager's control, such as investment guidelines and other product-level constraints, composition of benchmarks etc.;
- Asset managers are usually minority shareholders, without joint control or significant influence on investee companies.

The reference to fiduciary duty in AR 17 and 37 is helpful to operationalise this distinction. Representing a foundational concept in the asset management industry, our understanding is that fiduciary duty covers all investments made on behalf of clients by collective investment undertakings and in individual mandates.

Apart from this favourable development, we would like to submit the following comments for final consideration:

¹ BVI represents the interests of the German fund industry at national and international level. The association promotes sensible regulation of the fund business as well as fair competition vis-à-vis policy makers and regulators. Asset managers act as trustees in the sole interest of the investor and are subject to strict regulation. Funds match funding investors and the capital demands of companies and governments, thus fulfilling an important macro-economic function. BVI's 114 members manage assets of EUR 5 trillion for retail investors, insurance companies, pension and retirement schemes, banks, churches and foundations. With a share of 26%, Germany represents the largest fund market in the EU. BVI's ID number in the EU Transparency Register is 96816064173-47. For more information, please visit www.bvi.de/en.



- **Recognition of ESRS as fully IFRS-compliant:** We regret that, despite the compelling arguments as regards reporting simplification for globally operating companies, the Commission has so far not put forward the technical adaptations to acknowledge ESRS reports as fully IFRS-compliant. The solution to cut red tape would require only two targeted clarifications to the ESRS Delegated Act without changing the established European ruleset: (1) greater flexibility in the reporting structure by relaxing strict structural requirements in ESRS 1, para. 105 and (2) clarification of the existing non-obscuring principle by stating that financially material information must not obscure information that is material from an impact perspective and vice versa. We urge the Commission to collaborate with EFRAG and the ISSB for alleviating the reporting burden for global companies and strengthening the coherence of reporting frameworks before finalising the ESRS Delegated Act.
- **Further enhancing interoperability with IFRS standards:** We welcome the efforts made to date for advancing the substantive interoperability between the ESRS and key international sustainability reporting frameworks, notably the IFRS standards S1 and S2. Nonetheless, we call on the Commission and EFRAG to continue prioritising further alignment of reporting standards in both practical implementation of the current frameworks and their potential future reviews. Particular attention should be devoted to developing a common methodological approach to anticipated financial effects to support and facilitate quantitative reporting by undertakings.
- **Safeguards for the use of relief options:** The introduction of a horizontal „undue cost or effort“ relief seems pragmatic. From investors’ perspective, however, the risk that companies will widely invoke this claim, especially in value-chain metrics, in order to reduce the reporting burden, should be reasonably contained. Invoking the relief should be subject to clear safeguards, including a disclosure of why the relief applies, a disclosure of the scope left out, and material gaps. Without such safeguards, decision-usefulness of the reported data and portfolio-level aggregation might suffer.

Moreover, we support the requests made by the ESAs and the ECB for the reliefs in relation to “undue costs and efforts” and in particular to the “lack of skills, capabilities or resources” to be subject to a time limit of e.g. three years. Otherwise, no incentives will be provided to companies to improve their data coverage and reporting capabilities over time and information on material IROs could be omitted indefinitely which would perpetuate information gaps for investors.