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Making the EU Sustainable Finance Framework Fit for Purpose: BVI's position on the Omnibus I proposal

BVI[1] highly appreciates and supports the EU Commission's commitment to strengthen the competitiveness of the European industry and to reduce administrative burden for companies. We are keen to actively engage in the debates on how to achieve these goals in the area of sustainable finance in the context of the Omnibus I initiative.

We are convinced that the industrial policy for the real economy as envisaged by the Clean Industrial Deal needs to be complemented by a sound regime for sustainable finance in order to incentivise capital flows. At the core of sustainable finance rules sits a robust reporting regime that facilitates investment decision making. This combination of industrial policy and sustainability disclosures is needed to enable and support the transformation of the European economy and ensure its competitiveness in the future. The challenge with the Omnibus initiative at hand will be to strike the right balance between the much needed burden reduction on the one hand and reasonable transparency on transitioning progress on the other.

With these principles in mind, our views on the proposals included in the Omnibus I package are as follows:

Article 2: Amendments to the CSRD

- We **support simplification of sustainability reporting and the renouncement of sector-specific standards** to provide for the much-needed burden reduction for companies. Nonetheless, it is **problematic that discussion about the substance of reporting and reduction of the datapoints under the ESRS is detached** and will follow only after the Level 1 changes have been agreed. For asset managers as primary data users, it is impossible so far to assess the implications of the total changes regarding their access to ESG data.

- Asset managers need **decision-useful and comparable ESG data from a broad range of investee companies**. Therefore, as a general approach, we **prefer rigorous simplification of the reporting standards over reducing the scope of application**.

- Discussions on the substance of sustainability reporting need to **focus on the information needs of investors for assessing material risks, opportunities and impacts** of their investee companies. Mandatory reporting should be confined to key sustainability issues, including climate risks and impacts, climate-related transition plans and principal adverse impacts compiled in the table in annex B to ESRS 2. Together with EFAMA, we are currently working on a list of datapoints reflecting these requirements for the upcoming discussions on modifying the ESRS.

[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 115 members manage assets of EUR 4.5 trillion for retail investors, insurance companies, pension and retirement schemes, banks, churches and foundations. With a share of 27%, 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.

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- Sustainability reporting needs to be streamlined throughout the value chain. It is of utmost importance that **any sustainability-related information to be reported by financial market participants under SFDR can still be sourced from CSRD reports by investee companies**. Any reductions or modifications of the CSRD reporting standards should be assessed against SFDR and if necessary, directly entail corresponding changes in the transparency requirements for the financial sector. **In no event asset managers and other financial market participants must be expected to compensate for the loss of reported data by companies**.

- Asset managers are facing major legal uncertainty as regards the relevance of assets managed on behalf of their clients for their own sustainability reporting under ESRS. The upcoming ESRS revision should provide for **clarification on how clients' assets under management are to be treated in the context of sustainability reporting** by the asset manager/ the corporate group it belongs to. In order to cut red tape, we recommend

    - developing a sector-specific guidance on how the ESRS apply to the asset management sector with the overarching aim of avoiding duplicative reporting obligations on managed assets under CSRD and SFDR respectively,

    - clarifying that for the time being, due to legal uncertainties, reporting on client assets or their consideration for the purpose of materiality assessment is not required.

  In any case, entity-level sustainability disclosures should be streamlined by a **horizontal application of CSRD across all sectors**. Current transparency requirements under **Art. 3, 4(2)(b) and 5 SFDR should be deleted**, as they impose additional burden solely upon asset managers and other financial market participants without discernible benefits.

- To increase legal certainty and focus CSRD reporting on material sustainability issues, it would be **helpful to define the notion of the "value chain" under CSRD at Level 1 and to align it with the definition of the "chain of activities" in Article 3(1)(g) CSDDD**. Such alignment would generate efficiency gains through a streamlined approach to due diligence evaluation and reporting.

- The intended ESRS revision should be perceived as an **opportunity to further reinforce the alignment with the IFRS standards in order to streamline sustainability reporting for globally operating EU companies**. We recommend a **building block approach** whereby e.g. IFRS S2 should be used as a starting point for reporting of climate-related risks and opportunities and essential disclosure requirements on inside-out impacts on climate as well as reporting standards on other environmental and social issues should be added on top. Similarly, we encourage EFRAG and the Commission to evaluate whether reporting on the financially material sustainability aspects could be based on the globally acknowledged SASB standards in line with IFRS S1 which would effectively align with the established market practice and alleviate the implementation burden for companies, while potentially attracting investors from outside the EU. Moreover, a better structured cooperation between EFRAG and IFRS should be established to mutually stimulate and enforce the evolvement of sustainability reporting standards at EU and international level.

- We appreciate the efforts to protect small and mid-sized companies from disproportionate reporting burden. Nonetheless, in case such SMEs seek financing via secondary markets, either via equity investments or by issuing debt instruments, investors still need information on material sustainability risks and impacts of their business activities. Therefore, so far, **we cannot support the proposed value-chain cap** given that we have **no possibility to assess whether the VSME standard** to be adopted by the Commission **will cater for the essential information needs of investors**.

Article 2: Implications for the Taxonomy reporting

- In line with our comments on CSRD, it is **preferable to reduce the administrative burden** for companies by **radical simplification of Taxonomy reporting**. Therefore, we welcome the significant reductions of the data points and simplifications of the templates in the draft amendments to the Disclosure Delegated Act, but **request to drop the optionality of reporting for CSRD companies with net turnover below EUR 450 million** foreseen in draft Articles 19b, 29aa CSRD. The proposed limitation of CSRD scope to undertakings with over 1,000 employees already eliminates disproportionate treatment of small and mid-sized companies.

- Overall, the combined effects of the proposed **reductions in scope** represent a **significant blowback for the usability of Taxonomy**. Instead of being expanded, the Taxonomy reporting shall be reduced compared with the status quo and remain mandatory only for around 1,600 large companies. Hence, the **Commission needs to take a strategic decision whether it still envisages developing the EU Taxonomy as the anchor point of the EU sustainability definition** and the **basis for channelling investments to environmentally sustainable projects**. In particular, it is hardly imaginable that the future definition of "sustainable" products under SFDR as proposed in the PSF report could build up upon the Taxonomy criteria in such circumstances. The requirement under MiFID and IDD to ask retail investors about their preferences for Taxonomy-aligned investments that is questionable today would become entirely inappropriate.

- **Asset managers and other financial market participants must not be expected to compensate for the loss of reported data by companies**. Should the relevance of EU Taxonomy for company reporting be diminished in line with the Omnibus I proposal, then product-related transparency rules under Articles 5 and 6 Taxonomy Regulation and SFDR must not require financial market participants to obtain additional data on EU Taxonomy from third-party providers or to make reasonable assumptions in this regard.

- The possibility of **reporting on partial Taxonomy alignment** (either positive contribution or DNSH compliance) as foreseen in Articles 19b(4), 29aa(4) draft CSRD **could be useful for assessing the transitioning status of an undertaking**. Such possibility should be extended to all companies in scope of CSRD and the optional Taxonomy reporting should be deleted. It is important though to clearly distinguish such disclosures from full Taxonomy alignment, preferably by providing a separate table, to avoid misapprehensions by the data users.

Article 3: Amendments to the CSDDD

- We fully **support the proposed modifications to the CSDDD framework**. A clearer definition of relevant stakeholders, a stronger focus on direct business partners and foregoing of an EU clause on civil liability will lower the implementation burden and strengthen the general market acceptance for sustainability due diligence.

- With regard to financial services and investment activities, we welcome the proposal to delete the review clause on potential introduction of additional due diligence requirements. Financial undertakings should be subject to the same standards of due diligence as other companies concerning their chain of activities (upstream and downstream business partners).