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To the Members of the Economic and Monetary Committee (ECON) and of the Committee on Environment, Public Health and Food Safety (ENVI) of the European Parliament

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ECON/ENVI Draft Report on the Commission's Proposal for a Regulation on the Establishment for a Framework to facilitate Sustainable Investment (Taxonomy)

Dear Member of Parliament,

As organization of listed and capital market-oriented companies, Deutsches Aktieninstitut follows the legislative debate on the Commission's taxonomy proposal with close interest. German companies across all industries are well aware of the tremendous challenges of a changing world climate and a decline of natural resources and their responsibilities arising from these developments, which make a rethinking of business and production necessary. Against this backdrop, Deutsches Aktieninstitut supports the sustainable finance initiatives as expressed in the Commission's 'action plan on financing sustainable growth.

While we principally welcome the Commission's regulatory draft of a classification system ("taxonomy") to determine whether an economic activity can be classified as "sustainable" in respect of corresponding financial investments labeled and marketed as such, we are more reluctant to support the present ECON/ENVI draft report on the Commission's proposal. Overall, we believe that the draft report in its present form does not sufficiently take account of the situation of issuing companies of the producing industries and their need for corporate finance. In addition, we feel that the draft report contains numerous shortcomings and lacks clarity. Please allow me to illustrate our concerns with the subsequent remarks:

1. **Amendments 30, 31 – taxonomy-scope:**
   The Commission's approach of limiting the taxonomy to setting our requirements for investments/financial products marketed as environmentally sustainable should be preserved and not be enlarged. Enlarging the scope to all financial products, as proposed by the rapporteurs, threatens to curtail or even entirely cut off issuers with a traditional – while entirely legal - business model from corporate finance. Not only would such a regulatory approach be problematic from a legal point of view, but would also have severe detrimental and disruptive impacts on the European economy at large with the vast possibility of creating competitive disadvantages. Sustainable Finance should serve as an investment alternative without penalizing corporate finance.

2. **Amendment 47 – “sustainable vs. negative environmental impact”**

   a. **classification-approach and the role of corporate finance**:
   The parliamentary draft report appears to be fundamentally departing from the Commission’s approach. While the Commission intends to qualify certain economic activities as sustainable without explicitly classifying others not meeting the envisaged standards as environmentally harmful, the Parliament’s draft report distinguishes essentially between sustainable activities and activities with a negative environmental impact (new article 3a). The Commission’s approach should be retained. A classification of sustainable activities is sufficient as it cannot be held that activities outside of this category automatically are environmentally harmful. Furthermore, it remains unclear under which conditions an economic activity would be considered to significantly harm environmental objectives.

   In addition, the functioning of corporate finance has to be taken note of. The issue of a financial product frequently cannot be allocated to a specific project. For example, corporates typically do not issue bonds to fund individual projects (or project portfolios) but rather to meet their overall funding requirements. These may e.g. also be related to the need of refinancing existing indebtedness. From this perspective, a clear distinction between “sustainable” or “environmentally harmful” with respect to a financial product and the economic activities, which it is supposed to finance would hardly be feasible. Hence, sustainable finance instruments should be supplementing current financing strategies but will not be able to replace classic corporate finance.

   b. **“green-, brown- and black-listing”:**
   Current initiatives should focus on classifying activities exclusively; it should not be the intention to classify companies overall as "sustainable" or "green" by taking into account very few and theoretically developed criteria. Due to diverse business models (even within one company) there cannot be a one-fits-all approach. The evaluation of sustainability is always ambiguous and multifactorial. Thus, a “brown-“ or "backlisting" of certain industries based on a limited set of criteria must be avoided. Brand-marking whole sectors or specific technologies as “brown” or “black” will discourage sustainable investments in and developments by these companies and strengthen their reliance on extra-European funding. This would impose constraints on EU investors that would not apply to the investors from third countries and could be detrimental for the financing of the real economy. Moreover, a “green vs. brown or black”-approach must especially not be adopted if brown- or black-listed activities are compliant with the law and thus enjoy protection of trust.

3. **Amendment 29 – degree of sustainability, measurement based on indicators**
   It remains largely unclear to us how the measurement of the degree of sustainability of an economic activity and measurements of environmental objectives and contributions thereto shall function. The rapporteurs intend a measurement based on indicators. Several aspects remain unclear in this context. This applies foremost to the questions as to what constitutes an indicator, which types of

indicators will be regarded as suitable and by whom and how this decision will be made; moreover: how should such an indicator relate to scientific criteria and, which scientific criteria should be the relevant ones. Apart from this lack of clarity and the level of complexity, as shown by the enumerated questions, companies are concerned that their activities will need to be measured against various indicators contradicting themselves. It will be essential that companies be heard in the legislative debate on indicators and screening criteria - even more so as on these aspects, a quick adoption procedure is proposed by means of Commission delegated acts (see also amendment 94).

4. **Amendments 2, 19, 26, 95, 96 - safeguards**
   The rapporteurs mention the need for adequate safeguards to be put in place to ensure that economic activities are not harming other environmental objectives, such as biodiversity and energy efficiency (amendment 2). We believe that adequate safeguards and their indicators must be carefully set in order to not preclude activities with an overall positive sustainable effect along the entire lifecycle or value chain. As different companies can also be part of different steps in the production cycle and in order to achieve a fair assessment that accounts for the sector-/industry specific business activities, the overall lifecycle and value chain of an activity and their corresponding results and implications need to be considered.

5. **Amendments 53, 123 – new reporting requirements**
   The parliamentary draft report contains diverse new corporate reporting requirements supplementing the present framework of non-financial reporting. We believe the introduction of any new non-financial reporting-requirements to be premature at this stage. Companies were preparing non-financial reports in accordance with the transposition of the European CSR directive for the first time this year. Given that the implementation of new reporting requirements is complex and often involves the use of additional resources by companies, a thorough assessment of the impact which (the transposition of) the CSR directive has had should be conducted ahead of the introduction of any new reporting initiatives. Moreover, the outcome of the Commission's fitness check on public reporting for companies should be awaited.

   Disclosures of respective parts of total turnover corresponding to sustainable versus environmentally harmful activities (amendment 53) will be hard to render, as a clear allocation often cannot be reached (see above point 2). Furthermore, detailed climate reporting requirements as laid down in amendment 123 demanding a rapid change and extension of the present non-financial reporting framework will hardly be feasible as a sufficient period of time will be needed to adapt to such a system. This applies foremost to scope 3-disclosures with respect to greenhouse gas emissions along the entire value chain. At present, scope 3-information is extremely hard to collect, especially for companies with a complex multinational production and value chain, as considerably lower or even no standards of sustainability/CSR-reporting exist in many non-EU countries. In addition, present difficulties regarding the audit of scope 2 and 3 reporting should be duly noted and taken into account. Against this backdrop, a sufficient transitional period is needed for companies and auditors alike in order to develop sound and resilient structures as regards additional climate-relevant reporting requirements and especially the reporting of information under scope 1, 2 and 3.

According to the Commission's action plan mentioned at the beginning, the envisaged taxonomy is to be understood as fundament for all forthcoming initiatives on sustainable finance. We have explicitly agreed to this systematic approach as all future initiatives will depend on the question of whether economic activities can be classified as sustainable with respect to corresponding investments declared as such. This intended system to move from general to sector-specific issues threatens, however, to be cut through if the Parliament continues its efforts to adopt a quick position. For the benefit of the tremendous importance of the taxonomy as a cornerstone for sustainable finance, the question of which economic activities qualify as sustainable and thus eligible for sustainable investments deserves thorough deliberations and should not be rushed.

In order to achieve a maximum level of credibility and public acceptance, all efforts to move towards sustainable finance should be backed by a broad public and transparent discussion including all stakeholders. The respect for checks and balances in place as well as proportionality and subsidiarity must remain the essential coordinates for any legislative initiative adopted. Only these measures can ensure a maximum legitimation, which is desired especially against the backdrop of the objectives of sustainable finance. We kindly ask you to take our thoughts into consideration in the forthcoming legislative debate.

Yours sincerely

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