

## **Simplification of the Delegated Acts of the EU Taxonomy – More Ambition is Needed**

(Unclear) Materiality Thresholds will not Sufficiently  
Reduce the Reporting Burdens

Commission Delegated Regulation (EU) amending Commission Delegated Regulation (EU) 2021/2178 as regards the simplification of the content and presentation of information to be disclosed concerning environmentally sustainable activities and Commission Delegated Regulations (EU) 2021/2139 and (EU) 2023/2486 as regards the simplification of certain technical screening criteria for determining whether economic activities cause no significant harm to environmental objectives, 26 March 2025

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## Introduction

Deutsches Aktieninstitut welcomes the initiative to simplify the EU Taxonomy, and its reporting requirements launched as part of the Commission's OMNIBUS proposal. For many companies the EU Taxonomy reporting results in a tremendous effort to setup and maintain the EU Taxonomy processes, without corresponding benefits either for the company nor its stakeholders due to the following reasons:

- The economic activities of those companies are either not or only to a very limited extent covered by the EU Taxonomy, hence, eligible turnover and eligible operating expenses (OpEx) are not material from a financial point of view.
- The capital expenditures (CapEx) from the purchase of products from production of Taxonomy-eligible economic activities are not used for internal steering and decision-making since those activities are not considered as a core activity.
- The eligible and aligned CapEx is of limited/no interest for investors and the capital market.

Consequently, we propose to turn the EU Taxonomy into a voluntary instrument for all non-financial undertakings falling under the scope of the EU Taxonomy regulation. EU Taxonomy reporting should be left to the discretion of non-financial undertakings taking into account the perspectives of investors and other stakeholders - at least as long as the activities of so many sectors have not yet defined.

While the EU Taxonomy is a well-intended instrument and offers the chance to come to a common cross sectoral understanding of a sustainable economic activity, the practical experiences with Taxonomy Regulation have revealed certain shortcomings that have to be addressed.

Corporate practitioners struggle especially with legal and practical uncertainties related to the Do No Significant Harm (DNSH)-concept, which lacks comparability and produces odd results when applied to a lot of necessary transitional activities. Therefore, we welcome the announcement of the EU Commission to simplify the existing criteria wherever possible. Especially the DNSH criteria have to be simplified. In this context it is also important that the European Commission starts to work on the alignment of the DNSH criteria with existing EU legislation as this would improve the usability of the criteria. We urge the EU Commission to begin with the work on the DNSH-criteria as soon as possible.

In general, we believe that the proposals of the draft to simplify the Taxonomy do not go far enough. While the current drafts leave many questions unanswered, especially with respect to the calculation of thresholds introduced, they also lack ambitions in terms of the design of a reporting template significantly reducing the regulatory burden for non-financial undertakings above 1000 employees and 450 million € turnover. Independent of any provision regarding the disclosure of these amounts, the burden to collect and calculate them remains almost unchanged. Moreover, the amendments proposed to the draft delegated act lack a vision on how to make the Taxonomy work on the ground.

#### Deutsches Aktieninstitut suggests:

- To introduce a general materiality principle instead of introducing materiality thresholds as the latter do not sufficiently reduce the reporting burdens of companies
- To refrain from a reporting obligation on non-material activities
- To delete the OpEx KPI as it is cumbersome to calculate and adds little value to financial market participants
- To delete paragraph f) and the following paragraph of the generic criteria for DNSH to pollution prevention and control regarding the use and presence of chemicals (Appendix C). The proposed options in the draft do not solve the difficulties inherent to paragraph f) that goes far beyond the requirements laid out in the cited chemical regulations

## 1 Materiality Principle and Materiality Thresholds

Article 1 of draft Commission Delegated Regulation introduces materiality thresholds for the assessment of economic activities. According to this, the assessment of compliance of the economic activities with the technical screening criteria set out in Delegated Regulation (EU) 2021/2139 and Delegated Regulation (EU) 2023/2486 can only be omitted where those activities comply with any of the following conditions in respect with the respective KPIs:

*“a) the cumulative turnover resulting from those activities is below 10 percent of the denominator of the turnover KPI referred to in Section 1.1.1. of Annex I to this Regulation,*

*(b) the cumulative capital expenditure resulting from those activities is below 10 percent of the denominator of the CapEx KPI referred to in Section 1.1.2.1. of Annex I to this Regulation,*

*(c) the cumulative operational expenditure resulting from those activities is below 10 percent of the denominator of the OpEx KPI referred to in Section 1.1.3.1. of Annex I to this Regulation.”*

### 1.1 Introduction of a general materiality principle

We welcome the approach of the EU Commission to reduce the reporting burdens by introducing materiality thresholds. So far the EU Taxonomy does not include a materiality principle/materiality thresholds. This leads to the situation that companies are forced to report also financially not material values.

However, with the currently proposed materiality thresholds, companies would still need to assess all of their eligible activities. Hence, the significant efforts for companies to review their economic activities in detail will remain. Companies need to review, the eligibility criteria also for financially irrelevant and in monetary terms very small economic activities.

We propose that the EU Taxonomy should include a general materiality principle. This principle should be similar to the materiality principle prescribed in the International Financial Reporting Standards (IFRS). Accordingly, materiality should be considered as an entity specific aspect of relevance based on the nature and magnitude, or both, of the items to which the information relates. This would be a simple and pragmatic way to check the materiality of economic activities and significantly contributing to reduce the reporting burdens of companies.

## 1.2 10 Percent Thresholds

However, if the EU Commission pursues the thresholds concept clarifications regarding the definition and application of the materiality thresholds are needed. In particular, it is unclear whether the 10 percent materiality threshold should be applied to individual economic activities or as a cumulative value across all economic activities for the relevant KPI.

### 1.2.1 Clarification that the materiality thresholds of 10 percent are to be applied separately at the level of each economic activity

The use of “cumulative” and “those activities” in the draft indicates that an omission is only possible if all economic activities which are relevant for a non-financial undertaking are jointly below the threshold of 10 percent of the respective KPI. For sectors that are largely covered by the EU Taxonomy the consequence of this rule would be that many companies could not benefit from it as their cumulative turnover, CapEx or OpEx, for all economic activities together would be in general considerably higher than the proposed thresholds. The 10 percent threshold would therefore only apply to sectors/non-undertakings with very limited coverage by the EU Taxonomy.

However, on page 4 in the draft legal act it says that the *“introduction of a 10 percent de minimis threshold will mean that large undertakings with a large variety of activities will be exempted from assessing the compliance with the technical screening criteria of non-material economic activities. A de minimis threshold of 10 percent would therefore allow reporting companies to focus their efforts of assessing Taxonomy compliance (e.g., eligibility and alignment) of those activities that represent a significant share of their revenues, capital or operational expenditures.”*

This indicates that the materiality assessment should take place at the level of each economic activities. It would also allow all non-financial undertakings to benefit from simplification even those that are covered largely by the EU Taxonomy. We therefore strongly recommend clarifying that the materiality thresholds of 10 percent for each KPI are to be applied separately at the level of each economic activity.

Additionally, the assessment of materiality thresholds can only be done after the end of the respective financial year, e.g. retrospectively. The burden to collect, calculate and assess the data remains unchanged. We would therefore propose that mandatory reporting is only required if the materiality thresholds are reached in two consecutive years.

### 1.2.2 No disclosure of non-material activities

The draft delegated act requires to disclose the turnover, capital expenditure and operational expenditure related to non-material activities separately as non-material. However, a reduction of the reporting burden only materializes if internal data does not need to be collected, calculated and reported. If non-material data has to be disclosed, the data needs to be collected and calculated.

The majority of the effort for calculating Taxonomy KPIs is spent on a) determining the (eligible) turnover, CapEx and OpEx for each activity and b) providing documentation for the multiple Technical Screening Criteria (TSC) and Minimum Standards (MS) for aligned activities. Comparably little effort is spent on c) providing documentation for non-alignment due to one of the TSC or MS. Since companies are incentivized to use this exemption for c) (instead of b), the main efforts a) and b) remain unchanged.

Disclosing non-material information is also not in-line with the concept of the CSRD to only disclose material information. We strongly recommend deleting this provision from the delegated act. Non-material amounts of turnover, capital expenditure and operational expenditure should not be reported separately.

In general, ambiguities of the templates need to be clarified directly in the delegated act and not with a FAQ at a later point in time.

## 1.3 25 Percent Threshold

Non-financial undertakings may also omit OpEx reporting where the cumulative turnover resulting from those activities is below 25 percent of the denominator of the turnover KPI referred to in Section 1.1.1. of Annex I to this Regulation.

### 1.3.1 Delete the OpEx KPI

The use of “cumulative” and “those activities” in the draft legal text indicate that an omission is only possible if all economic activities which are relevant for a non-financial undertaking are jointly below the threshold of 25 percent. In this case, the EU Taxonomy reporting would remain unchanged and the reporting burden would not be reduced.

There is additional unclarity regarding the OpEx reporting for activities below 25 percent turnover, since the phrase “omit reporting” suggests that all reporting on eligibility or alignment (either separately or somehow in the templates) is optional, while the context description sounds contradictory.

The current contradictions within the document pose challenges for companies and auditors. At the same time, disclosure of Taxonomy-related OpEx is less relevant

than turnover and CapEx: Companies sustainability profile is primarily defined by their Taxonomy-related turnover data followed by their CapEx figures (including CapEx plans). Furthermore, other EU initiatives like the Green Bond standard or the recently announced Taxonomy-aligned benchmark are linked to "green" turnover and CapEx but have no connection with OpEx.

Also, the Commission clearly points out in the recitals to draft delegated act, that the OpEx KPI is of lesser informational value, significance and decision usefulness. Sustainability reporting should focus on relevant and decision-useful information that supports investors in their decision-making process. We very much doubt that the OpEx KPI (and the EU Taxonomy in general) fulfills these requirements.

Given that OpEx is cumbersome to calculate and adds little value to financial market participants, disclosure on (eligibility and alignment) of OpEx should be deleted or made voluntary.

If the deletion or the voluntariness of the OpEx KPI is not consensual the best way to move forward would be to limit OpEx to research a non-capitalized development costs.

### **1.3.2 Clarification on CapEx plans in the case of the omission of the OpEx KPI**

The draft delegated act does not touch upon the CapEx plan which includes both CapEx and OpEx. If a company may omit reporting the OpEx KPI due to non-materiality, how should the CapEx plan be calculated? Would the CapEx plan then include only CapEx and omit OpEx? We urge the Commission to clarify this issue in the final delegated act.

### **1.3.3 Companies not generating significant revenues from Taxonomy-eligible activities should be exempted from the Taxonomy reporting**

The exemption from the obligation to report on OpEx compliance in the case of Taxonomy-eligible sales of less than 25 percent of total sales does not go far enough. We therefore recommend that companies that do not generate significant revenues from Taxonomy-eligible activities be completely exempted from the Taxonomy reporting requirement.

## 2 Templates

The European Commission recommends a new reporting template with a less complex structure and incorporating potential “multiple contribution” into a single template (vs. currently, separate tables). In general, we believe that the new templates provide a better structure and understanding. However, we fear the requirements of “multiple contribution” assessment would lead to confusion. Therefore, we recommend to integrate a “single path” approach in the table, i.e. remove “multiple contribution” reporting requirements to improve clarity and reduce both the calculation / assessment and the reporting efforts. As financial companies do not use this disclosure either, this removal would have no negative repercussion.

### 2.1 The drafted proposals do not sufficiently reduce the complexity and length of the reporting templates

The draft delegated act aims to reduce the complexity and length of the reporting templates and ease considerably the reporting of undertakings under Delegated Regulation (EU) 2021/2178. However, the draft delegated act falls short of this objective as the large reporting table is replaced by two reporting tables per KPI but without significantly reducing the number of mandatory data points in the template.

The new reporting tables omit only

- the redundant and irrelevant information on compliance with Do No Significant Harm (DNSH) criteria and the Minimum Safeguards for all aligned economic activities,
- the disclosure of information on non-eligible activities (information that can be calculated without any additional burden as the monetary amount of eligible activities needs to be calculated anyway) and
- details regarding eligible but not-aligned information (for which only limited calculations are necessary).

The removal of templates 2-4 and the shortening of other templates removes redundant information and thus increases reader-friendliness of financial reports. However, it provides only negligible burden reduction, since eligible turnover, CapEx and OpEx of all activities and the aligned turnover, CapEx and OpEx of all material activities are presumably still necessary to fill out the templates.

Increasing only reader-friendliness and not reducing bureaucratic burden for companies beyond the voluntariness of proving Technical Screening Criteria-(non-)fulfillment for non-material activities does not support the goal of 25 percent bureaucracy reduction. In the first year, implementing new templates even increases burdens. In addition, the new templates lack clarification if and how non-material turnover, Capex and OpEx need to be included in any KPIs. Further ambiguity of the templates has been pointed out by DRSC's consultation feedback and will lead to late, individual agreements between companies and their auditors on the interpretation, if not clarified more precisely already in the draft delegated act.

For activities making up more than 10 percent of turnover, CapEx or OpEx only the assessment of technical screening criteria (TSC) is voluntary, not the assessment of Minimum Safeguards (MS) or the calculation of their turnover/CapEx/OpEx. It is unclear whether and how "non-material" KPIs need to be included in the reporting templates, since the templates only use ambiguous terms such as "eligible" and the text here only mentions "reporting separately" their turnover, CapEx and OpEx.

According to the draft delegated act, non-material amounts of turnover, CapEx and OpEx need to be continued for reporting. These are also additional data points. Additionally, the templates do not contain any column/line for reporting non-material amounts.

The draft Delegated Act still includes the descriptive column "enabling" and "transitional". These two columns could be deleted as superfluous as an activity cannot be enabling and transitional at the same time, and its 'description' is already provided in the regulatory description of the activity. This would improve the readability of the Taxonomy tables while not undermining the ambition or comparability of companies' disclosure.

The complexity and length of the reporting templates has therefore not been reduced substantially. In its draft delegated act the Commission refers to a "66 percent reduction" of data points in the reporting templates. As outlined, the reduction is minimal, and the reporting efforts remain basically unchanged.

We would also strongly request that the delegated act contains a line-by-line and column-by-column explanation of the reporting tables so that it is clear which information should be disclosed in which cell of the reporting tables since the filling is not clear so far.

## 2.2 New Disclosure Table (Annex I amending Annex II DDA LW)

### 2.2.1 Template I should only be disclosed once

*"Non-financial undertakings shall duplicate this template to disclose separately the turnover, the CapEx and the OpEx KPIs, clearly indicating in the title of each table which KPI the table refers to."*

The Template I table already includes turnover, Capex and Opex. Therefore, it is not clear why the table needs to be disclosed three times. Reporting the template once should be enough.

### 2.2.2 Template I: Add a column to disclose the total KPI value (denominator).

The column "Total" (2) only considers the total eligible amount as indicated in the header. This means the total KPI/denominator (e.g. total CAPEX) is not disclosed in this template. This may make it complex for readers to connect Template I and Template II which contains the total KPI value (denominator). Column (3) refers to the total KPI value but is disclosed next to column (2) which only contains the total eligibility - this can confuse readers as the denominator from column (3) is not shown in column (2).

## 3 Appendix C and other Annexes

Among the DNSH criteria that need to be fulfilled for compliance with the Taxonomy criteria, the generic criteria related to the use and presence of chemicals (“appendix C”) cause a lot of unclarity and are very difficult to implement. We appreciate that the EU Commission is acknowledging these concerns and is stressing the necessity to simplify these requirements and reduce the expenditures for industry.

### 3.1 Delete paragraph f) and the following paragraph from Appendix C

In the draft, the EU Commission is proposing two different options to amend Appendix C:

**Option 1** would remove the requirement in the paragraph following f). Under this option, the requirements concerning substances that are covered by one of the hazard classes mentioned in Art. 57 REACH would be deleted.

**Option 2** would alter the requirement in the same paragraph. Under this option, the requirement for substances in one of the hazard classes mentioned in Art. 57 REACH would be restricted to substances falling under these hazard classes and listed on Annex VI of the Classification Labelling and Packaging Regulation (CLP). Apart from this, operators would no longer need to prove that these chemicals are used under controlled conditions.

Although both Option 1 and 2 fully remove or partly reduce the requirements for substances in one of the hazard classes mentioned in Art. 57 REACH, they do not solve the difficulties inherent to paragraph f). The requirement in this paragraph goes far beyond the requirements laid out in the cited chemical regulations. Reporting entities need to verify whether substances listed on the Candidate List (“Substances of very high concern” = SVHCs) are being used or placed on the market either as substances, mixtures, or within articles. If yes, the reporting entities are required to replace these substances with less harmful substitutes, unless they have assessed and documented that no suitable alternatives are available. Furthermore, it must be shown that the chemicals are used under controlled conditions.

Producers of complex goods, like e.g. cars, are facing the problem that parts incorporated into the final product are purchased from a complex and global supplier network and subject to a long supply chain with several companies in a row. Even though the mere presence of SVHC in an article needs to be reported downstream within the supply chain according to REACH Art. 33, there is no

obligation to report substitution assessments and documents about the controlled use of chemicals during the production of the specific article to the downstream users.

The language of f) can be understood in a way that manufacturers of the final product would, however, need this information to fully comply with Appendix C. Furthermore, manufacturers outside the EU are not even required to assess the substitution of harmful substances, thus not facing the same urgency to fulfill the requirements of substitution assessment as the final manufacturer does.

It should be added that final manufacturers typically have contractual relations with their tier-1 suppliers only and do not have direct access to the upstream tier-n suppliers involved in the supply chain. It is thus an extremely burdensome and difficult task to retrieve all necessary information and documentation about the replaceability and safe use of SVHC within a complex supply chain. Manufacturers would have to deal with hundreds of tier-1 and possibly thousands of tier-n suppliers (most of whom are not even known to the final manufacturer), and even if all information on all articles retrieved this complex network were available, it would remain questionable if this excessive administrative data collection would result in significant environmental benefits.

Furthermore, final manufacturers do not have access to safety datasheets applicable to the use of chemicals by upstream suppliers, nor do they know where chemicals used within the supply chain are sourced. Companies are struggling to assess all substances themselves without this information. The new draft of Annex C would clarify that the requirements in the mentioned paragraph is applicable to substances with a harmonized classification only, thus resolving one of the main problems of the current wording and referring to a clear legal definition.

Although Option 2 clarifies which substances are within the scope of the paragraph following f), it retains the fundamental difficulties with this paragraph. The same uncertainties and burdens inherent to paragraph f) on SVHC and discussed in detail before apply to the following paragraph in exactly the same way: lack of information on substance assessment in the upstream supply chain due to a lacking legal foundation; enormous and inappropriate efforts for retrieving information necessary for compliance; one-sided disadvantage of final manufacturers of complex goods in the EU compared to non-EU companies; introduction of requirements beyond the underlying chemical regulations. Furthermore, although Option 2 specifies the number of relevant substances (this would still keep more than 1200 substances in the scope of this requirement), companies are not required by law to report the presence of these substances in products to downstream users. Option 2 thus does not resolve the fundamental problem that reporting entities face severe challenges when trying to receive complete and reliable information on which substances can be present in the components that have been purchased within the supply chain.

We would like to state that SVHCs and substances in one of the hazard classes mentioned in Art. 57 REACH are already regulated under other regulations (e.g. EU CMR directive, REACH annex XVII Entry 28-30). Those regulations appear much more effective and targeted since they are addressing the actual use of chemicals directly and put a pressure on all economic players to comply with these restrictions, whereas under Annex C the responsibility for compliance lies mainly on the manufacturer of the final product. The regulation of harmful substances should preferably be achieved through the appropriate and well-established chemical regulations such as REACH.

Since both Options 1 and 2 seem not sufficiently efficient in terms of a significant reduction of administrative expenditures and simplification, we suggest limiting the scope of Appendix C to paragraphs a) to e). These paragraphs define clear and well-understood requirements that are well established in the respective chemical regulations. Moreover, the requirements in paragraphs a) to e) need to be fulfilled by both EU and non-EU companies when entering the EU market, whereas f) and the following paragraph place an additional disadvantageous burden on companies registered in the EU. Paragraph f) and the following paragraph should thus be deleted from Appendix C.

However, if the deletion of paragraph f) and the following paragraph is not consensual we support the proposed Option 1 and the Deletion of the additional paragraph of Appendix C.

### **3.2 Criterion 6.19 regarding Sustainable Aviation Fuel (SAF) alignment**

#### **3.2.1 Reassess the scraping rule criterion for the special situation of the cargo aircraft market**

It takes an average of 15 years from the first generation of passenger aircraft to the first production or conversion for freight transport. By the time a cargo operator gains access to a new type of aircraft, passenger aircraft technology has already advanced again, meaning cargo operators are at best a generation behind passenger aircraft.

#### **3.2.2 Allow aligned REVENUE reporting for legacy aircraft (aircraft produced before EU Taxonomy came into force) which are compliant with the SAF criterion (SC CCM point e)**

To align aviation activities, the use of SAF is tied to specific aircraft technology via the DNSH criteria. A key one of those relates to pollution prevention and restricts the use of certain substances in an aircraft or the manufacturing of it, as referenced in Appendix C of the technical screening criteria. Now, for most cargo aircraft

produced before 2024, it is just not realistic to proof the absence of those substances, and even manufacturers cannot certify this retrospectively. Consequently, investments and revenues related to aviation activities struggle to comply with DNSH with these sustainability standards - and without meeting DNSH for the aircraft that are used for SAF, it's no possible to align the SAF.

### 3.2.3 Allow also SAF certified from voluntary and other schemes such as CORSIA or any fuel which feedstock is aligned to the Renewable Energy Directive, Annex 9

In addition to issue with Appendix C, there is another complexity regarding SAF: The criterion of Activity 6.19 e) requires SAF to be aligned with ReFuelEU Aviation, which excludes any uplifts from airlines certified under CORSIA or voluntary schemes such as ISCC Plus - even if the SAF itself fulfills the requirements from ReFuelEU, in line with the Renewable Energy Directive. To enhance usability for international operations, we propose removing the reference to ReFuelEU Aviation legislation and instead allowing also CORSIA certified fuel and - in addition - any fuel which feedstock is aligned to the Renewable Energy Directive, Annex IX.

As a final point, we would like to highlight a restriction mentioned in the FAQ. In the answer to Question #42, it states: “Moreover, in the case of an airline group, the calculation of the SAF quantity should be limited to the fleet owned by the single operator (e.g., at the subsidiary level, and not at the group level).” While this requirement may not pose any concerns for an airline, it does create challenges for a logistics company and other airlines which are organized as a group. To simplify the SAF share calculation it should be allowed to do the calculation on group level.

### 3.3 Delete “use of” in first sentence (Draft Annex VI – X)

The first sentence still includes “use of” in addition to “manufacture” and “placing on the market”. In particular, “use of” leads to problems in global supply chains, as non-European suppliers often do not provide much of the information required under Annex C. Furthermore, including “use of” leads to confusion from a legal perspective, as the regulations and directives mentioned in Annex C cover different areas of application, for example the referenced RoHS regulation covers only placing on the market and not “use of”.

“Use of” should be removed from the first sentence, then Annex C focuses on “manufacture and placing on the market” and ambiguities and implementation hurdles are removed.

### **3.4 Only manufacturers and sellers of certain electrical and electronic equipment have to consider paragraph d) (Draft Annex VI – X)**

While the new text for d) clarifies that the exceptions in Annex III and IV of the Restriction of Hazardous Substances in Electrical and Electronic Equipment (RoHS) Directive are applicable also for EU Taxonomy reporting, it fails to include the equally important clarification which products are in scope of d).

The previous commission notice C/2023/267 (<https://eur-lex.europa.eu/eli/C/2023/267/oj>) already provided the missing clarification in question 176: “Compliance with point (d) of Appendix C only applies within the scope of the Directive 2011/65/EU (RoHS Directive). The scope of the RoHS Directive is set in Article 2 of this Directive”.

The referenced Article 2 states “This Directive shall [...] apply to electrical and electronic equipment falling within the categories set out in Annex I.” Consequently, only manufacturers and sellers of certain electrical and electronic equipment need to consider d) for their Taxonomy reporting. Though already clarified, user-friendliness of the EU Taxonomy would increase by including this fundamental clarification directly in the legal text instead of providing it just in a commission notice.

Rephrase d) as follows: “(d) substances, whether on their own, in mixtures or in articles, listed in Annex II to Directive 2011/65/EU and falling in the scope of Article 2 of that Directive, except where there is full compliance with the applications listed in Annexes III and IV of that Directive”.

## Contact

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Dr. Uta-Bettina von Altenbockum  
 Head of Sustainability  
 Phone +49 69 92915-47  
 altenbockum@dai.de

Frankfurt Office:  
 Deutsches Aktieninstitut e.V.  
 Senckenberganlage 28  
 60325 Frankfurt am Main

EU Liaison Office:  
 Deutsches Aktieninstitut e.V.  
 Rue Marie de Bourgogne 58  
 1000 Brussels

Berlin Office:  
 Deutsches Aktieninstitut e.V.  
 Behrenstraße 73  
 10117 Berlin

Lobbying Register German Bundestag: R000613  
 Transparency Register: 38064081304-25  
 www.dai.de

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