

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

Mr Steven Maijoor
Chair of the European Securities
and Markets Authority
CS 809010
201-203 Rue de Bercy
75589 Paris Cedex 12
FRANCE

Dr. Christine Bortenlänger
Executive Member of the Board

Phone +49 69 92915-21
Fax +49 69 92915-11
E-Mail bortenlaenger@dai.de

31 August 2020

Joint ESA-Consultation on ESG-Disclosures

Dear Mr. Maijoor,

Deutsches Aktieninstitut, the organization of German listed and capital market-oriented companies welcomes the launch of the afore-mentioned joint consultation and the opportunity of contributing to it with the perspective of non-financial companies.

From our point of view, sustainable finance initiatives should bear in mind much stronger the indirect reporting effects on enterprises of the producing industries. The producing industries are frequently indirectly affected to a large degree by any sustainable finance initiatives even when these are addressed at investors in the first place. This phenomenon also applies to the joint ESA-consultation dealing with ESG disclosure-standards for the financial sector-companies, which are subject to the sustainable finance disclosure regulation (SFDR).

Additional disclosure-requirements for financial companies inevitably lead to a larger volume of reporting obligations for investee-companies since investors and other financial enterprises will typically ask their investee-companies to provide them with the information they need to meet the disclosure-requirements addressed at them. Non-financial companies are, however, already at present subject to a high level of ESG reporting duties that will even be increased in the forthcoming month due to the review of the EU Directive on the disclosure of non-financial and diversity information (CSR-Directive, 2014/95/EU) and the taxonomy-regulation, which will have to be applied from 2021 on.

Any regulatory steps leading to new factual disclosure obligations for non-financial companies ahead of the adoption of the overhauled EU-Directive on CSR-reporting and the entry into force of the taxonomy – which also addresses the “do no significant harm” (DNSH) -issue – should be refrained from since they might as unintended consequences produce a disproportionate reporting regime and in the worst case legal inconsistencies and uncertainties that companies will then be confronted with.

Deutsches Aktieninstitut e.V. • Senckenberganlage 28 • 60325 Frankfurt am Main • Phone +49 69 92915-0 • Fax +49 69 92915-12
E-Mail dai@dai.de • Internet www.dai.de • Vereinsregister VR 10739 (Amtsgericht Frankfurt am Main) • USt-ID-Nr. DE 170399408

Executive Committee: Dr. Hans-Ulrich Engel (President) • James von Moltke • Wolfgang Nickl • Marco Swoboda Dr. Günther Thallinger • Prof. Dr. Ralf P. Thomas • Dr. Jens Weidmann • Harald Wilhelm • Jens Wilhelm • Executive Member of the Board: Dr. Christine Bortenlänger

We fear, for example, that the 32 core indicators identified by the ESAs will add up to the new indicators laid down in the taxonomy regulation (proportion of turnover allocated to sustainable business activities, capital expenditure and operating expenditure) and to the potential new KPIs that will come out of the review of the EU CSR-Directive. Furthermore, each investor will potentially require additional data depending on their strategies and preferences or affinities with other well-established or future non-financial reporting standards, such as the SASB standard, GRI, CDP or the likes. This will result in excessive and unjustified administrative burden for issuers, without delivering relevant and useful information to investors and other stakeholders. Furthermore, the indicators listed in Table 1 of the consultation document are very comprehensive, ambitious and not always goal-oriented. Companies are not familiar with some of the mentioned indicators, for example Scope 4 emissions. Some indicators, e.g. hazardous waste, lack a definition and are not uniformly regulated, which makes it difficult for companies to provide information.

As mentioned above, the DNSH issue is already defined in the taxonomy. If the definition of DNSH in the taxonomy were different from the definition of the DNSH issue as envisaged in the ESG-disclosure standards from the ESAs, companies would have to extend their reporting requirements. We also want to stress that the consultation at hand might lead to pre-determinations concerning the DNSH issue, which prejudices the DNSH issue of the taxonomy. If this would be the case, enterprises would not be sufficiently involved in the drafting of the DNSH issue as envisaged in the ESG-disclosures standards.

We therefore encourage EU policymakers and authorities to adopt a coordinated and holistic approach with the aim to create an overall reporting framework for both investors and issuers, which is consistent and proportionate and ensures that all data reported are relevant. Ahead of the adoption of the delegated act, we recommend to establish a close dialogue between investors and issuers - for instance within the Sustainable Finance Platform for the sake of identifying indicators, which are relevant for investors and can be produced by issuers. In addition, means have to be explored to ensure a coordination between the drafting of level 2 measures under the SFDR, the review of the EU CSR-Directive, potential future EU standards on non-financial reporting and the taxonomy.

I kindly ask you to take our thoughts into due consideration.

Yours faithfully



Dr. Christine Bortenlänger
Executive Member of the Board