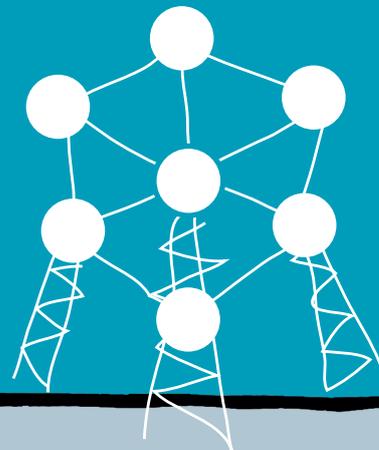


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**EUROPE
CAN DELIVER!**



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The citizens of the European Union are called upon to vote for a new European Parliament from 23 to 26 May this year. What reads as nothing more than an agency's heading is in truth nothing less than a miracle: More than seven decades after the horrors of World War II came to an end, we find the European Union as a community of respect, friendship and collaboration between its member states and people. The European Union has produced the longest period ever of peace in Europe, political stability and economic prosperity. These remarkable achievements deserve to be praised and appreciated rather than constantly complaining about shortcomings created by policy-makers in Brussels.

Yet, the state of the Union is at stake. Efforts are needed for preserving and sustaining a politically and economically strong European Union. Europe is and will continue in the medium and long-term to be exposed to tremendous challenges. Only a European Union firmly standing together and committed to common European values – which we all equally share and cherish – will be able to remain economically competitive and politically influential on the international stage. Only common European action will be able to produce adequate and effective reactions on the most pressing developments threatening the Union's solidarity:

- Populist movements aimed at weakening the EU
- Migration
- Climate change
- Changing transatlantic relations and the rise of China as a new super-power
- Brexit
- Disruptive technological developments

Lasting solutions to these problems range far beyond the capacities of individual member states and require team spirit. Finding such solutions is frequently not easy and depend on the ability and willingness to find compromises.

But it can be done! Common European responses to a changing world order can and must be found. The European economy plays a key role here. A strong and competitive European economy is pivotal for a strong European political voice in the world.

In order to maintain and strengthen the economic capacity of the European Union, it is essential for European policy makers to better understand and reflect on the competitive situation that European companies find themselves in vis-à-vis third country competitors. An open and impartial dialogue between European companies and European regulatory institutions is needed and will create much needed trust.

In the past, a tendency for scepticism of regulatory institutions vis-à-vis especially large companies with international operations has often been witnessed. It needs to be understood, however, that companies are the lifeblood of the social market economy in Europe and are thus not a problem, but rather an essential solution to many problems! Companies create growth, jobs and technical innovation. These objectives are delivering prosperity and social security by ensuring a steady while sustainable economic development, which is much needed among others against the backdrop of a changing world climate. In this sense, a broad support for companies of all sizes beyond the idea of creating national or European champions is needed.

From this starting point, a new approach to the EU economic and especially capital markets policy is urgently needed pursuing the following objectives:

1. Ensure an unhindered access to corporate finance – Build a ‘Capital Markets Union 2.0’

A solid access to corporate finance is an essential precondition for companies to perform and consequently deliver growth and prosperity in Europe. In order to enable them to do so, flexible and diverse means of corporate finance are needed, which will make companies and the whole economy more resilient to crisis-situations. From this perspective, the Capital Markets Union must materialize. In the current legislative period, only few measures introduced by the Commission to achieve a strong European Capital Markets Union have been implemented. A thorough follow-up is urgently needed requiring member states to join forces and to stand together in order to pursue common European interests. In addition to corporate finance purposes, capital markets are essential also for securing finances of public households and for provision purposes of private investors such as building up retirement savings, thereby contributing to wealth at large. In order to enable the European capital markets to deliver these functions, the following steps establishing a ‘Capital Markets Union 2.0’ are needed:

- **CREATE AN EASY AND BARRIER-FREE ACCESS TO CAPITAL MARKETS AND PUBLIC LISTINGS:**

The Market Abuse Regulation and Directive (MAR/MAD), the Directive and Regulation on Markets in Financial Instruments (MiFID/MiFIR) and the Prospectus Regulation have produced a considerable level of bureaucracy and legal uncertainties for issuers without clear corresponding benefits for investors.

The extension of the scope of the market abuse rules as well as the MiFIR/MiFID-rules to multilateral and organized trading facilities should be revoked in order to enable also small and medium size companies to opt for and benefit from capital markets based finance. At present, disclosure thresholds and MAR-obligations like ad hoc publicity, insider lists and manager transaction reports create significant bureaucratic burdens irrespective of a listed company’s size often without benefits on the investor’s side. This situation should be well addressed in the forthcoming MAR-review.

As regards prospectuses, more flexibility is needed to meet the individual needs of issuing companies and enable tailor-made solutions for the issuance of financial products. Concerning smaller listed companies, alleviations for drafting prospectuses should be thoroughly considered in order to lower the burdens for accessing capital markets.

- **SIMPLIFY AND ALLEVIATE CORPORATE REPORTING:**

Detailed, inflexible and steadily increasing reporting obligations for listed companies have accumulated over the years and created bureaucratic burdens and dispro-

proportionate compliance costs for companies often without corresponding investor benefits. The electronic reporting tool iXBRL subject to the European Single Electronic Format (ESEF) can be seen as an example here. New reporting duties will frequently also produce an additional liability risk for companies acting as a disincentive for public listing. A thorough impact assessment should be conducted ahead of any deliberation for new reporting requirements. The outcome of the Commission's fitness check on public reporting by companies must be carefully evaluated. Reporting requirements without any corresponding benefits must be abolished.

- **REFRAIN FROM FINANCIAL TRANSACTION TAX IN ANY SHAPE:**

The Financial Transaction Tax (FTT) as such as well as the recently discussed proposal of limiting the FTT to share transactions will hamper corporate finance activities and disadvantage private investments into share based retirement saving-schemes. Efforts of private investors to make up for shortcomings of state- or government pension plans would hence be punished. Such plans should be refrained from.

2. Foster sustainable economic development by acknowledging the role and achievements of companies

Climate change and environmental pollution remain crucial and pressing challenges affecting all of us with little time left to act. Deutsches Aktieninstitut supports the transition to a low carbon and resource-efficient economy as laid out in the Commission's "Action Plan for Sustainable Growth". Listed companies throughout Europe and across all industries are well aware of their responsibility and are willing to make a positive contribution, which is demonstrated by the broad spectrum of voluntary corporate sustainability initiatives among others on climate mitigation and environmental protection. These voluntary efforts deserve to be acknowledged, respected and incentivized by European and national regulators.

- **FLEXIBLE FRAMEWORK NEEDED, NO EXCLUSION CATEGORIES FOR SUSTAINABLE FINANCE**

Wherever possible, flexible rules should be preferred to a mandatory legal framework creating starch and misleading one-size-fits-all rules. Every company should be given a chance for a transition to sustainable business operations and should not be excluded from sustainable finance. A categorical preclusion of certain industries by a "green vs. brown approach" is not helpful.

- **CORPORATE VOICES TO BE HEARD AND UNDERSTOOD IN THE SUSTAINABILITY DEBATE**

In order to create a strong and sustainable European economy, companies have to be continuously heard in the sustainability debate and should be adequately respected in the composition of expert forums such as the yet to be established platform on sustainable finance. Corporate concerns need to be understood as ultimately, companies are the true drivers of sustainability by delivering technical innovation. Regulatory initiatives pursuing climate change mitigation, environmental protection and other sustainability topics should be developed from this perspective.

- **CORPORATE PURPOSE NOT TO BE OVERLOADED**

Implementing sustainability aspects into corporate governance should not lead to a new dimension of corporate purpose confronting companies with a “mission impossible”. Unrealistic expectations of the public vis-à-vis enterprises should not be given rise. In this context, a proportionate transposition of the UN Sustainable Development Goals is one of the key objectives.

3. Maintain competitiveness of the European Union economy by a proportionate legal framework

In order to prevent European companies from falling back in their competitiveness vis-à-vis their third country competitors, a re-calibration of European rules in the following policy-fields is needed:

- **NEED FOR AN EU LEGAL FRAMEWORK FOR INVESTOR PROTECTION:**

The “Achmea”-landmark decision of the European Court of Justice, which holds arbitration-clauses in bilateral investment treaties between EU-member states as non-compliant with European law, left European enterprises with a profound level of legal uncertainty concerning their investments within the Union. In order for the EU to remain an attractive place for business and foreign investments, the incoming EU-Commission should address this subject with high urgency and design an EU legal framework, which guarantees the protection of foreign investment across member state borders.

- **COUNTRY-SPECIFIC TAX REPORTS NOT TO BE MADE PUBLIC:**

A publication of country specific tax reports in the annual report of companies threatens to have serious impacts on the competitiveness of a company since such reports allow conclusions on business models and profit margins. In accordance with the OECD BEPS-principles, country by country reports should only be presented to tax authorities.

- **KEEPING NATIONAL CORPORATE GOVERNANCE AND COMPANY LAW STRONG:**

Common European projects in the field of company law and corporate governance should acknowledge that both areas are vastly shaped by the specifics and customs of member state law and national legal traditions. From this perspective, the European legislator should be cautious when addressing company law and corporate governance related issues and closely pay attention to the legal situation in the member states. The two-tier board system should not be undermined by the implementation of elements taken from the one-tier system on a European level. In a diverse legal environment, the one-tier board system cannot stand as a role model for the European Union. Moreover, a sufficient level of caution and reservation should be exercised within attempts to find a European definition for the company's interest.

IN A NUTSHELL:

Even if the European Union is currently facing severe developments, there is reason for optimism. The EU can overcome the present difficulties by strengthening the economic positioning of Europe in the world. In order to do so, EU-policy makers and the business community need to understand each other, to acknowledge that they depend on one another and to realize that team play between them is essential. Embracing the European idea by standing together is the key for positive change!

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