Frankfurt am Main,
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BVI Position on the EC Consultation on the Renewed Sustainable Finance Strategy

I. General remarks

BVI[1] welcomes the opportunity to comment on the Renewed EU Sustainable Finance Strategy. The core underlying objective of the EU Action Plan (2018) is to encourage and incentivise investments in sustainable activities. We strongly support this policy approach and indeed **advocate a non-mandatory redirection of capital towards sustainable investments**. It must remain the investors' decision to finance sustainable projects or to account for the effects of its investments on sustainability factors when allocating capital, in particular:

- In order to facilitate engaging with companies on ESG issues, it would be helpful if the EU framework for ESG products recognised (or at least did not prevent) ESG investment strategies based on engagement.
- If EU legislators consider certain activities being open to criticism, they should regulate them directly instead of effectively prohibiting the financial sector from financing them.

With regard to mainstreaming sustainability in the financial sector in the upcoming years, we consider the following **challenges and opportunities** as crucial:

- There is a risk of **overlapping, inconsistent and fragmented sustainable finance rules** (e. g. the timing of the entry into force of the Regulation on sustainability-related disclosures (SFDR) does not allow for proper implementation of ESG disclosures requirements, with possible negative consequences for the distribution process for sustainable products).
- The result of the **new definition of "sustainability preferences"** of clients in the Delegated Acts under MiFID II and IDD (e. g. where products offered as ESG/sustainable under SFDR do not really meet clients' sustainability preferences) will cause huge confusion and is likely to have adverse effects on the goal of redirecting capital flows towards sustainable investments.
- **Ecolabel**: Although supporting an EU-wide label for green investment products, we fear that the criteria currently discussed for the Ecolabel for financial products are far too ambitious, especially with regard to (1) the thresholds being discussed for green investments in line with the Taxonomy, and (2) the proposed long lists of exclusions. Both in combination will materially limit the eligible investment universe.
- In terms of **opportunities**, the growing ESG awareness can certainly trigger stronger interest in sustainable finance among retail investors. However, this positive trend should be accompanied by **investor education initiatives** on benefits and limitations of ESG/sustainable products.

[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 114 members manage assets more than 3 trillion euros for retail investors, insurance companies, pension and retirement schemes, banks, churches and foundations. With a share of 22%, 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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On a general basis, we recommend the EC to take the following actions in order to properly shape its Sustainable Finance agenda:

- From the **viewpoint of investors**: providing **clarity about the pathways for achieving the EU sustainability objectives**, e.g. as regards reduction of carbon emissions, protection of the ecosystems etc.
- **An obligation for companies to report** about their economic activities contributing to achieving those objectives.
- Facilitating an **open public dialogue on a regular basis via a dedicated body** (such as the Platform on Sustainable Finance) about the formulation and consequences of the EU sustainable finance agenda, together with regular reviews and the scrutiny of legislative measures.
- **On an international basis:** global promotion of EU regulatory standards (especially for corporate reporting on ESG standards) as well as of a common understanding of sustainable economic activities in line with the EU Taxonomy.
- **Alignment of reporting rules for issuers and investors** via (1) extending the scope of reported information in order to cover all ESG aspects relevant for investors, (2) introducing a mandatory ESG reporting standard, (3) aligning the concept of materiality under the Non-Financial Reporting Directive (NFRD) with the provisions incumbent upon investors.

II. Sustainability denominations for investment funds

We call on the European Commission to **abstain from introducing additional minimum standards for ESG products at the current stage**. Fund managers and other providers of ESG products are currently occupied with SFDR implementation and in this way, are already adapting the product frameworks in order to align them with the future regulatory requirements. Any new requirements for minimum ESG standards would disturb this process and further inhibit the offerings of ESG products. The EU should **first allow for proper SFDR implementation** and gain market experience with the new rules, before initiating further discussions.

In any case**, potential future standards for ESG products must be discussed and stipulated in the context of SFDR** in order to ensure a level playing field among different product categories and consistency with other pieces of EU law. In this context, we are critical of the proposed amendments to MiFID II and IDD Delegated Regulations that introduce a new definition of sustainability preferences of clients and thus, effectively provide for new stricter requirements for ESG products. This approach is not acceptable from the perspective of the criteria for proper regulation, both in terms of timing and content. A situation, where products can be marketed as ESG in accordance with SFDR requirements, but cannot be offered to clients with sustainability preferences at the point of sale, must at all costs be avoided.

Furthermore, there is no market demand for an ESG or “green” product label for institutional investors. Institutional investors have very different preferences as regards the sustainability issues they deem relevant, and are able to discuss them directly with asset managers in order to either set up tailored investment solutions or to select products most suiting their sustainability profile. They do not need to rely on a standardised label that would anyway not be capable of reflecting their individual needs.

III. Repetitive offering of sustainable investment products as default option for retail investors

We do not agree that retail investors without sustainability preferences should repeatedly be offered sustainable investment products. First of all, such requirement would be incompatible with one of the main pillars of the EU Action Plan that is to say, encouraging and incentivising voluntary investments in sustainable activities. It must remain the investor's decision whether to finance sustainable projects or to account for the effects of its investments on sustainability factors when allocating capital. This means that investors that are either indifferent to sustainability issues, or even expressly declare that they do not care about sustainability and are only interested in achieving financial returns, must not be offered sustainable investment products. Secondly, the application of ESG filters in the investment process generally leads to a different, more limited investment universe that is available for sustainable products. For instance, funds with dedicated ESG strategies may offer less diversification and not allow for participation in the investment opportunities in certain sectors. Investors without explicit sustainability preferences should not be deprived of those participation chances unless they specifically request this.

IV. "Brown" taxonomy

We support the underlying objective of the EU Action Plan to encourage and incentivise investments in sustainable activities that has culminated in the establishment of the "green" EU Taxonomy. The concept of Taxonomy is to positively distinguish economic activities that qualify as sustainable due to their level of progress in, or general importance for, carbon emission savings or other environmental goals, while not making a judgement about the remaining parts of the market.

A brown taxonomy, on the other hand, would have the following severe downsides:

- It would **stigmatise certain economic activities as having adverse impact and being undesirable from the sustainability perspective**. As a result, economic activities classified as brown would be effectively deprived of financing opportunities via capital markets, most probably also via bank lending, and hence turned into stranded assets even though the activity as such would remain legal. **If EU legislators consider certain activities as open to criticism, they should regulate them directly instead of effectively prohibiting the financial sector from financing them.**
- It would **prevent companies whose business model is based on "brown activities" from entering the path of transition** towards a more sustainable economy. For such companies, classification as "brown" would be disruptive in socio-economic terms. Alternatively, those companies might turn to non-European financial market participants in search for sources of finance. This would then result in competitive disequilibrium and might prompt evasive behaviour in the market.

V. Requirements for integration of adverse sustainability impacts of investment decisions

We urge the Commission to **exercise due caution when considering further duties with regard to integration of principal adverse impact** of investment decisions. In particular, a respective adaptation of the asset managers' fiduciary duties or a redefinition of the best interests of investors would **inevitably change the very nature of asset management**. In consequence, investors would have to avoid polluting sectors or other investments deemed as problematic from the ESG perspective and thus, would be indirectly forced to use their capital in a manner prescribed by the legislator. Such a regulatory outcome is certainly not covered by the current EU Action Plan that works by encouraging voluntary investments in sustainable activities. It would not only contradict the principles of the free market economy, but also run counter to investor protection and the goal of wealth accumulation.