Frankfurt,
8 August 2022

BVI's[1] key messages in the context of EFRAG Sustainability Reporting Board Consultation Survey

We recommend EFRAG

- to **introduce a common set of core risk and impact indicators** by reference to the 14 mandatory PAI indicators under SFDR that should be reported by each and every company,
- to **link the "rebuttable presumption" to the assessment of double materiality** that should be conducted with reference to a coherent internal concept,
- to **integrate the ISSB standards as a "global baseline" of sustainability reporting by direct references in the ESRS** in order to facilitate full consistency and application of ESRS by non-EU issuers.

The new EU framework for corporate sustainability disclosures CSRD is key to achieving the objectives of the EU sustainable finance initiatives. BVI members – German fund and asset managers – need comparable, comprehensive and credible ESG information about investee companies in order to properly evaluate sustainability risks and opportunities of their investments and to implement ESG investment strategies by incorporating sustainability factors in their investment decisions. In addition, fund and asset managers are subject to ESG-related reporting obligations that relate to their managed portfolios and require identification of various data points, including KPIs on Taxonomy-alignment, on principal adverse impacts and on sustainability strategies and targets of their investee companies.

Against this background, we fully welcome and support the efforts undertaken by EFRAG in order to respond to these information needs of investors by introducing a first set of European Sustainability Reporting Standards (ESRS) within the framework set by CSRD. In order to further enhance practicability and effectiveness of the future ESRS, we would like to suggest the following adaptations to the exposure drafts:

1. **Mandatory reporting on a core set of risk and impact indicators:** We greatly appreciate the enormous work undertaken by EFRAG in order to provide for coverage of all indicators for principal adverse impacts, mandatory and optional alike, by the ESRS. These encompassing disclosure requirements, as demonstrated by appendix III to the ESRS cover note, would represent a substantial step forward to meaningful sustainability information.

   Nonetheless, we are concerned that in practice, most detailed disclosures on PAI-relevant indicators might be disapplied by companies under the "rebuttable presumption" approach. Our understanding of EFRAG's proposal in this regard is that companies shall be able to rebut the presumed reporting requirements if they deem certain sustainability risks or impacts as not material in view of their specific business operations. E.g. a consulting company could potentially decide not

[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 116 members manage assets of some EUR 4 trillion for retail investors, insurance companies, pension and retirement schemes, banks, churches and foundations. With a share of 28%, 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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to report on its GHG emissions or its emissions to water given that such emissions might be considered neither a material risk to, nor a material impact of, its operations.

However, this outcome would deprive investors of essential information on risks and impacts of their investee companies and would be contradictory to the legal evaluation under SFDR. Indeed, the SFDR framework provides for a clear assessment that certain impacts on people or the environment are always principal and thus must be duly considered for each and every investment decision.[2] For investments in companies, these principal adverse impacts have been translated into 14 mandatory indicators on GHG emissions, water, waste, biodiversity and social and employee matters that need to be identified and monitored in any circumstances. The same rationale should be valid for the assessment of materiality under the ESRS: **indicators that match the 14 mandatory PAI KPIs should be deemed material in any event** and thus, should not be subject to the "rebuttable presumption" principle. They should form **a core set of indicators that needs to be reported by each and every company**.

For other disclosure requirements, the **"rebuttable presumption" mechanism should be clearly linked to the assessment of double materiality**. Each company should be responsible for implementing a coherent internal approach to double materiality assessment in line with the ESRS requirements and for explaining its reasoning as part of the sustainability report. Only information on sustainability risks, opportunities and impacts that based on such internal assessment are deemed not material in view of the specific business operations of an undertaking could then be legitimately disapplied.

2. **Introduction of a "building-block" concept for the integration of ISSB standards:** Asset managers invest globally on behalf of European investors in order to provide them with access to investment opportunities around the globe. They have a pivotal interest in comparable sustainability data being published by EU and non-EU issuers according to common reporting standards.

   Therefore, we appreciate the efforts undertaken by EFRAG so far to reconcile the ESRS exposure drafts with the ISSB disclosure standards under consultation. However, such reconciliation seems currently focused on consistency of the substantive requirements and does not yet fully account for the underlying idea of treating the ISSB standards as a "global baseline" of sustainability reporting. In the final text of CSRD, the EU legislators state the expectation that "European standards should reduce the risk of inconsistent reporting requirements […] by integrating the content of global baseline standards to be developed by the ISSB, to the extent that the content of the ISSB baseline standards is consistent with the EU's legal framework and the objectives of the European Green Deal."[3]

   In our view, **integration of the ISSB standards as a "global baseline" would be best accomplished by a "building block" approach**. Reporting requirements on topics and indicators that are covered by the future ISSB standards should be introduced by **direct reference to these standards** that will be applied around the globe in the context of different jurisdictions. Additional EU-specific reporting requirements under the ESRS should build upon the ISSB standards and relate in particular to environmental issues not yet covered by the ISSB work as well as social and governance issues. Moreover, they should obviously follow the double materiality approach that is so far not reflected in the ISSB exposure drafts.

[2] Cf. recital 4 and Art. 6(1) Delegated Regulation on SFDR dd 6 April 2022.
[3] Recital 37 of the CSRD text after the Trilogues.

We are convinced that such layered approach to the introduction of sustainability standards would help companies to navigate through the reporting requirements. It might also encourage non-EU issuers to provide voluntary reports on some/all additional ESRS topics if for that purpose they could build upon sustainability disclosures in line with ISSB standards prepared in other jurisdictions. Such encouraging effect would be very welcomed from investors' perspective, but also for facilitating sustainability reporting by subsidiaries and branches of third country undertakings under the new Articles 40a to 40d CSRD. We are fully aware that implementation of such "building block" approach is very challenging, also in terms of timing considering the less advanced progress of the ISSB work on social and governance matters. However, it is worth considering it in order to increase the coverage of ESRS compliant sustainability reports by companies.