Frankfurt am Main,
15 July 2020

EU Consultation on the Renewed Sustainable Finance Strategy: additional comments by BVI[1]

We gladly take the opportunity to participate in the public consultation on the renewed sustainable finance strategy. In this context, we would like to provide further explanations with regard to our response to the online questionnaire:

Q4 and 10 (communication of how business strategies are aligned with the goals of the Paris Agreement and which temperature scenarios investors are financing): At the current stage, we are reluctant to the idea of introducing specific requirements for estimating and disclosing quantitative environmental impact of investments. The reasons for our concerns are as follows:

- The SFDR regime to come into effect by 10 March 2021 will set entirely new standards for ESG disclosures. Financial market participants will be required among others to report about principal adverse impact of their investments at the entity level, i.e. across all portfolios. According to the Level 2 standards currently under consultation, such reports shall encompass disclosures of a long list of quantitative indicators, including first and foremost indicators on GHG emissions, carbon footprint, weighted average carbon intensity and exposure to the solid fossil fuel sector. Therefore, **information about the environmental impact of investments over all managed portfolios will be anyway available to the market** in the near future.
- Calculation of the principal adverse impact KPIs will entail significant challenges for most financial market participants. The relevant data points for calculating the indicators are largely not available from companies. Some of the data, albeit of insufficient quality and with significant gaps, can be purchased from commercial data vendors that are gaining market power and start flooding the market with overpriced services. In its reply to the current consultation, the ECB acknowledges that available sustainability and **climate-related data and scores suffer from a lack of standardisation and comparability that must be seen as an impediment to the consistent use of ESG data by financial institutions and market participants**. These challenges should not be further exacerbated by introducing yet another disclosure requirement prompting the need to collect further ESG data in the near term.
- The situation with regard to ESG data will hopefully improve following the NFRD review. It should indeed be considered a regulatory prerogative for the NFRD review to provide for standardised reporting of all ESG information to be taken into account by investors. If considered desirable in policy terms, the **NFRD review could encompass further work on a common EU-wide methodology for measuring the temperature scenarios** of business activities that could then form the basis for respective reporting by companies and subsequently by investors. In view of the recent experiences with the legislative process in relation to SFDR and especially the Taxonomy, we urge the Commission to stick to this course of action and in any case, **not to introduce new ESG disclosure duties for financial market participants if not accompanied by corresponding requirements in terms of corporate disclosures**.

[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.

Q50 (systematic offering of sustainable investment products as one of the default options for retail investors): We are not entirely sure which scenario the Commission has in mind when raising this question. The terms "systematic offering" and "default option" are so far not being used in the distribution context under MiFID II. Moreover, it is unclear whether the condition "when the provider has them available" refers to the product provider or distributor, and how the term "comparable cost" shall be understood.

In any event, **we do not agree that retail investors without sustainability preferences should be systematically being 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 encouraging and incentivising voluntary investments in sustainable activities. It must remain the investor's decision whether he or she wishes 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 product. Secondly, 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 cannot be deprived of those participation chances without their specific request.

Q91 (requirements for integration of adverse sustainability impacts of investment decisions): Discussion on consideration of principal adverse impact in the investment process by asset managers is already being led in the context of SFDR and the Level 2 measures for integration of sustainability risks under UCITS Directive and AIFMD. The standards discussed so far imply the duty to take into account principal adverse impact in the investment process if a fund manager either commits to such consideration on a voluntary basis or is legally required due to its size under Article 4 SFDR.

In our view, consideration of the results of principal adverse impact assessment in the investment process is dependent upon the investment strategy and the terms and conditions of a specific product. While such consideration should be appropriate for funds with specific ESG strategies, it is much more difficult to apply in the investment process of traditional non-ESG funds that do not commit to investing in line with dedicated ESG standards. In case of the latter, fund managers are obliged by the investment contract to pursue specific objectives in terms of financial yields and to base investment decisions on relevant economic considerations in the first place. Therefore, it is important that the asset manager retains the discretion on the prioritisation of factors when taking investment decisions.

Against this backdrop, 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 ESG perspective and thus, would be indirectly forced to use their capital in a manner prescribed by the legislator. Such regulatory outcome is certainly not covered by the current EU Action Plan that works upon 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.