Frankfurt am Main,
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BVI's[1] call for "Quick Fixing" the dates of application of the Disclosure Regulation

The dates of application of the Disclosure Regulation at Level 1 and 2 need to be aligned in order to avoid legal uncertainty, duplication of implementation efforts and loss of investors' confidence in sustainable investments. The application of the Level 1 provisions subject to further specifications by way of RTS should be postponed by one year, possibly by way of a "quick fix", in order to allow for sufficient implementation period (at least six months) after finalisation of the Level 2 measures. This should in any case pertain to the requirements under Articles 3gamma, 4a, 5, 6 and 7.

Reasoning:

- **Level 2 measures will not be finalised at the time of the Level 1 Regulation entry into force:** Most provisions of the Disclosure Regulation aiming at enhancing and standardising investors' information in terms of sustainable investments shall become applicable 15 months after publication of the Level 1 Regulation in the EU Official Journal. At the same time, however, the Disclosure Regulation calls for extensive Level 2 measures concerning details of the content and presentation of such information. Most of those measures shall be developed jointly by all three ESAs and submitted to the Commission 12 months and 20 days after publication in the Official Journal. Given the breadth and complexity of the issues as well as the process within the Joint Committee, we already received signals from the ESAs that their drafting work will very likely not be finalised before the formal deadline. Considering the regulatory process to follow – endorsement by the Commission and submission to the EU Parliament and Council for the scrutiny period – it is very clear that the Level 2 measures will not be in place at the time of application of the Disclosure Regulation.

- **The industry cannot prepare for implementation on the basis of the draft RTS developed by the ESAs**: First of all, the draft RTS will be likely finalised only two months before the date of application which is far too short for effectuating internal implementation projects involving a variety of disclosures at both company and product level. Secondly, in view of the regulatory process to follow, the draft RTS developed by the ESAs cannot be treated as the final requirements for the purpose of internal implementation. This will be even more the case after the ESA reform which will take effect as of 1 January 2020. Under the amended framework for issuing Regulatory Technical Standards, the Commission will be empowered to endorse the draft RTS submitted by the ESAs only in parts, or with amendments, "where the Union's interests so require".[2] This means that at the time of application of the Level 1 Regulation, the industry will have no legal clarity about the final disclosure requirements.

[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. Fund companies 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 more than 100 members manage assets of some 3 trillion euros for private investors, insurance companies, pension and retirement schemes, banks, churches and foundations. With a share of 22% in the EU Germany represents the largest fund market as well as the second fastest growing 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.

[2] Cf. Article 10(1) fifth subparagraph of the amended ESA Regulations.

BVI
Bundesverband Investment und Asset Management e.V.

Contact
Phone +49 69 15 40 90 0
www.bvi.de

BVI Berlin
Unter den Linden 42
10117 Berlin

BVI Brussels
Rue du Trône 14–16
1000 Bruxelles

BVI Frankfurt
Bockenheimer Anlage 15
60322 Frankfurt am Main

Executive Board
Thomas Richter CEO
Rudolf Siebel MD

- **Implementation on the basis of Level 1 texts only will duplicate costs and might harm investors' confidence in disclosures concerning sustainable investments:** In the worst possible scenario, market participants will need to implement the Level 1 requirements under Articles 3gamma, 4a to 7 on a best effort basis and then amend the information only a few months later when the Level 2 measures will enter into force. This would not only potentially duplicate implementation efforts and involve unnecessary costs which will be ultimately borne by the end-investors. It might also prove detrimental to investors' confidence in sustainable products if information they rely on for reaching investment decisions would need to be substantially amended within a short period of time. Moreover, such as situation would also involve significant liability risks for both product manufacturers and distributors since the information used in the distribution process after entry into force of the Disclosure Regulation will no longer met the requirements because of new specifications at Level 2 becoming subsequently applicable. In the end, such uncoordinated way of application will certainly not contribute to establishing a trustful and reliable operating environment for sustainable products and their distribution.

We believe that a sequential phasing-in of the Disclosure Regime as proposed above is best suited to align both the political requests for swift application and the legitimate market interest in implementing legally sound requirements and avoiding liability risks as well as disruptions of the marketing process.

At the very least, and only in case the suggested solution proves not feasible, the Level 2 requirements should be accompanied by an appropriate transitional period of at least six months in order to allow for proper implementation and avoid fast sequences of amendments to investor information.