Frankfurt,
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BVI's[1] comments on the draft ESRS Delegated Act published by the EU Commission on 9 June 2023

We are concerned about the **lack of ambition of the draft ESRS delegated act** that entails **major inconsistencies** with other parts of the EU sustainable finance framework. In view of the arguments outlined below, we call upon the Commission to **urgently take the following actions** before finalising the delegated act that will effectively set the standards for sustainability reporting for the next decade:

1. **Introduce mandatory reporting on a core set of environmental and social indicators** that responds to the information needs of EU investors in line with the technical advice provided by EFRAG,

2. **Require from every company disclosure of key climate indicators** and other information enabling investors to assess the credibility of corporate transition plans,

3. In the longer run, introduce a mechanism whereby any **expansion of sustainability-related disclosure requirements for investors would be contingent upon availability of such information under ESRS,**

4. Ensure **maximum possible interoperability of the ESRS with the recently finalised ISRS** in order to reduce fragmentation across the global reporting landscape and support cross-border capital flows benefiting sustainable transition.

The new EU framework for corporate sustainability disclosures CSRD is key to facilitating capital flows into sustainable and transitioning economic activities and thus central to achieving the objectives of the EU sustainable finance initiatives. BVI members – fund and asset managers active in the German market – need comparable, comprehensive, and credible ESG information about investee companies in order to properly evaluate sustainability risks and opportunities and to implement ESG investment strategies by incorporating sustainability factors in their investment decisions. In addition, fund and asset managers are themselves subject to ESG-related reporting obligations under EU law that relate to their managed portfolios. These obligations involve identification of various data points, including KPIs on Taxonomy alignment (under the Taxonomy Regulation), on principal adverse impacts and on sustainability strategies and targets in relation to their investee companies (under SFDR).

The CSRD is supposed to close the current information gap in relation to the sustainability profile of companies and reduce the dependency of financial market participants on commercial vendors of ESG data existing so far.[2] For this reason, when preparing the ESRS, the EU Commission has been requested by the co-legislators in Article 29b(5)(b) CSRD to take into account, to the greatest extent

[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 115 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.
[2] Cf. recital 9 and 10 CSRD.

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possible, the information needed by financial market participants in order to comply with their own disclosure obligations under SFDR.

The draft ESRS Delegated Act published by the EU Commission on 9 June 2023 significantly falls behind these objectives and risks undermining the ambitions of the EU sustainable finance initiatives as outlined above. By subjecting nearly all substantive requirements to the materiality assessment by reporting companies, it fails to ensure that EU asset managers obtain all sustainability-related information necessary for their investment and reporting purposes.

The lack of a core set of indicators to be reported by each and every company, as recommended by EFRAG, would deprive investors of essential information on sustainability-related risks and impacts and would be contradictory to the legal evaluation under SFDR. 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.[3] 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 also for the purpose of company reporting under CSRD**.

Unfortunately, the list of mandatory PAI indicators is currently being expanded with the aim of introducing 4 new indicators on adverse social impacts by investee companies. This respective consultation is being conducted by the ESAs on the basis of a Commission's mandate,[4] but without any clear link to CSRD in terms of process or timing. As a result, the gap between the information needs of investors and the reporting requirements for companies might be even further widened. However, under the CSRD provisions referenced above, information needs for investors and reporting requirements for companies should go hand in hand.

Moreover, in light of the EU's climate objectives and investors' own climate commitments, **reporting on GHG emissions, transition plans and climate targets should always be considered material and hence mandatory**. This would ensure that investors are able to assess the alignment of their portfolios with net-zero and the Paris Agreement targets and to facilitate sustainable transition by engaging with their investee companies based on sound and credible information.

These obvious deficits of the ESRS need to be remedied as a matter of urgency. Otherwise, as a consequence of the Commission's proposal, European asset managers will remain effectively dependent on commercial ESG data vendors in order to close the remaining data gap for non-reporting companies. This outcome might also render the EU flagship project of establishing ESAP as a centralised, easily accessible platform for especially ESG data quite useless. It is highly unlikely that asset managers will source incomplete data on EU issuers from the ESAP if they still need to retain IT interfaces with ESG data providers who usually sell data packages encompassing all relevant ESG datapoints for certain markets.

Moreover, in order to ensure transparency, the ESRS should require companies that choose to omit disclosures on certain sustainability issues to **explain the reasons why such topics are not deemed material**. Without such accompanying explanations, it would be neither possible for investors to

[3] Cf. recital 4 and Art. 6(1) Delegated Regulation on SFDR dd 6 April 2022.
[4] Cf. mandate_to_esas_on_pai_product.pdf (europa.eu)

comprehend the reasoning for non-disclosures nor feasible for auditors to assess the application of the materiality assessment. Proper clarifications would be even more relevant in case the Commission should stick to the materiality assessment as proposed without defining a core set of mandatory indicators.

Lastly, while appreciating the efforts undertaken so far for ensuring interoperability between the recently issued ISSB standards and the ESRS, we call upon the Commission to verify that interoperability works not only with regard to specific indicators and metrics, but also in terms of the financial materiality assessment as the intersection of both standards. It would be also very helpful to provide for an interoperability navigation tool identifying (1) common reporting requirements under both frameworks, (2) requirements that are unique to ESRS and (3) those relevant only under ISRS in order to facilitate practical application for both preparers and users of sustainability reports.