Frankfurt am Main,
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BVI's position with regard to the consultation paper issued by the CFA Institute on the development of ESG disclosure standards for investment products

The recent initiative by the CFA Institute to develop market standards for ESG-related disclosures by investment products is of great interest to German fund and asset managers. Therefore, BVI[1] gladly takes the opportunity to submit its views that will hopefully be considered in the pending process, even though the period for consultation has formally expired.

In view of the rapidly growing investors' interest in ESG products, there is indisputably a practical need for more guidance as regards the use of ESG-related terms for marketing purposes, provision of relevant information and, last but not least, mapping of product-related ESG features to the needs and preferences of investors. All these aspects are supposed to be covered by the announced CFA standard that aims at increasing transparency and comparability for investors. However, while such standard would be of great value in the absence of regulatory requirements, it is important to bear in mind that in the EU markets, regulatory standards for ESG disclosures are just about to come into force by 10 March 2021 under the SFDR framework. Implementation of SFDR will be principle-based at the first stage, but shall also entail regulatory technical standards that will prescribe details of the content and presentation of ESG information. Those standards are meant to become mandatory by beginning of 2022. Sustainability-related rules are also being developed under other pieces of EU law, such as MiFID II and IDD that cover distribution issues and will shortly provide for a regulatory understanding of sustainability preferences of clients.

Against this background, it should be clear that the EU regulatory standards on ESG disclosures will be superior to a potential market standard to be developed by the CFA Institute. European fund and asset managers will likely have difficulties to adhere to the proposed CFA standard given the following:

- The regulatory technical standards to be developed under the SFDR framework in the EU are expected to provide for mandatory templates for pre-contractual and periodic disclosures on ESG matters with detailed requirements in terms of order, visual presentation and contents of investor information. These templates will be relevant to all products with dedicated ESG features, including funds and segregated mandates, and will probably leave very little room for adaptations in line with a future CFA standard.

- The disclosure requirements under SFDR shall apply to any product that promotes environmental or social characteristics as part of its investment strategy or has a dedicated sustainable investment objective. According to the current understanding, there shall be no discretion for product providers whether or not to apply ESG disclosures. Rather, the ESG-related transparency obligations will be incumbent upon any investment fund or segregated account in case consideration of ESG factors represents a binding element of the investment

[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 113 members manage assets more than 3.6 trillion euros for retail investors, insurance companies, pension and retirement schemes, banks, churches and foundations. With a share of 27%, 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.

strategy agreed with investors. They shall pertain to publicly distributed and private products alike. Therefore, all investment products with ESG-related features will need to comply with the SFDR standards in case they are sold to European investors.

- In addition, the distribution rules under MiFID II and IDD frameworks will be shortly adapted to provide for a regulatory understanding of sustainability preferences of clients. Exploration of sustainability preferences shall become a mandatory element of suitability assessment in the context of investment advice and portfolio management services. While the proposed criteria for determining sustainability preferences are quite contested, since they promote a very narrow understanding of sustainability, we are currently not in the position to evaluate whether the ESG-related needs as proposed in the consultation paper will be excluded by this narrow understanding or will be able to be considered in the investment process by EU distributors.

Given this complex environment in the EU that will shortly generate superior regulatory standards in most areas of ESG-related disclosures, we do not support the development of a market standard by the CFA Institute at the current stage. There is a clear risk that a contending market standard on issues already covered by detailed regulation would only further complicate the operating conditions for European asset managers offering products with dedicated ESG strategies.

In this regard, we would like to point the CFA Institute to the recent announcement by the International Platform on Sustainable Finance (IPSF) to work on international alignment of standards for sustainability-related disclosures. In its preliminary workplan for 2021, the IPSF notes that there are still significant gaps in the quality and comparability of information disclosed to meet the needs of investors. In this light, the IPSF has set up a working group, co-chaired by the EU, Japan and Switzerland, that shall facilitate the exchange of views on national and international policy and regulatory developments regarding sustainability-related reporting, with the aim of supporting the further alignment of disclosure requirements across IPSF member jurisdictions. A public report that shall describe commonalities and differences in existing disclosure requirements has been announced for October 2021.

Against this background, we suggest that the initiative by the CFA Institute aiming at market standards for ESG disclosures should be put on hold at least until publication of the IPSF report. The need for the development of a common standard on ESG-related disclosures should be reconsidered on this basis. This suggested delay would also allow the CFA Institute to take full account of the effects that the regulatory technical standards under the SFDR framework will have on standardising ESG disclosures in the EU.