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Mr Thomas Dodd
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European Commission
DG FISMA

by E-mail

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Re.: Report on Climate-related Disclosures

Dear Mr Dodd

We would like to thank you for the opportunity to provide the EU Commission's Technical Expert Group on Sustainable Finance with our comments on the Report on Climate-related Disclosures.

General Comments

We welcome the efforts to advance management reporting by aligning non-financial reporting (according to the requirements set forth in the EU CSR Directive (Directive 2014/95/EU, amending Directive 2013/34/EU)) with the Recommendations of the Task Force on Climate-related Financial Disclosures (TCFD). We believe that the TCFD Recommendations fit well into the management reporting system, as they focus on the future-proofness of companies' business models as well as on risks and opportunities *for* the company (and its business model), whereas sustainability reporting standards focus on companies' impacts, which are instead risks arising *from* companies' business operations.

However, differing definitions of "materiality" and "risk" can impair a company's ability to comply with both the requirements set forth in the CSR Directive as well as those included in the TCFD Recommendations:

- Pursuant to Art. 19a of Dir. 2013/34/EU, certain non-financial information shall be disclosed "to the extent necessary for an understanding of the undertaking's development, performance, position *and* impact of its activity."

This non-financial information shall meet the information needs of a broad range of stakeholders (EU Guidelines on non-financial reporting, p. 9). The TCFD Recommendations require relevance for an understanding of a company's financial position only. Financial markets participants constitute the primary audience of the reports. Thus, disclosures in accordance with the TCFD Recommendations would not "automatically" be in accordance with the EU CSR Directive: Adjustments would be necessary with regard to impacts and the broader audience.

- Furthermore, the thresholds for risk reporting pursuant to Art. 19a of Dir. 2013/34/EU are comparably high ("material and likely to cause adverse impacts in environmental, social and employee matters, respect for human rights, anti-corruption and bribery matters") whereas TCFD requires "(financial) materiality" only. Thus, risk assessment according to TCFD recommendations would lead to more risks being reported than under the EU CSR Directive – however, additional information than that required by national GAAP may only be disclosed if it does not obscure the report's clarity and the overall picture displayed.

These obstacles could be overcome if the definitions of materiality and risks for non-financial statements (according to Art. 19a, 29a of Dir. 2013/34/EU) were aligned with the "traditional" management report (according to Art. 19, 29 of Dir. 2013/34/EU).

<u>Chapter 2: Disclosures under the Directive: Principles and Rationale for Non-Financial Reporting</u>

It is stated on p. 9, that it is highly likely that the impact of a company on climate change captures issues that have a financial impact on the company in the medium to long term. However, neither Dir. 2013/34/EU nor the non-binding guidelines define the time horizon for management reporting. Some countries (such as Germany) generally assume a forward-looking horizon of one year. The overlap of financial relevance and the relevance of impacts is far smaller over such a short period.

We believe that the non-financial statement, as part of the management report, forms part of companies' annual financial report. Therefore, it is intuitive (not only „allowed") to include financial information in a non-financial statement. The paragraph quoted („references to … financial statements", p. 10) may, in our view, instead require companies to state that for specific topics, as the case may be, specific measures have been reflected in the financial statements, such as impairments or provisions.

Chapter 3: Alignment of NFRD and TCFD

The TCFD recommendations are structured around four thematic areas that represent elements of how companies operate: governance, strategy, risk management, metrics and targets (p. 13). We are convinced this is an appropriate approach not only to address risks and opportunities related to climate change but all aspects mentioned in Art. 19a of Dir. 2013/34/EU: environmental, social and employee matters, respect for human rights, anti-corruption and bribery matters.

Chapter 4: Proposed Disclosures

The introduction of three types of recommended disclosures can be helpful for report preparers. However, two types of disclosures might be sufficient. Moreover, we believe that type 1 disclosures, with the expectation, that „At a minimum, a company is expected to report certain disclosures, irrespective of the companies' own assessment." should be assessed in line with the materiality definition for the management report and with its management approach. Such strict requirements might also be contrary to the concept of „non-binding" guidelines.

Neither Dir. 2013/34/EU nor the TCFD Recommendations define „risks" (nor do the non-binding guidelines; the TCFD Recommendations refer to transition and physical risks but without defining what a risk actually is). National standard setters and corporate risk management departments often refer to the ISO 31000 definition (risk = "effect of uncertainty on objectives"). This can create a misunderstanding that – in cases where a company has set no climate-related objectives – it has no climate-related risks. In fact, companies have objectives with regard to the undertaking's development, performance and position (financial objectives) that can be severely impaired e.g. by climate-related developments. We recommend this be clarified.

As for scenario analyses, which are one of the core items within the TCFD Recommendations, we should like to emphasize the need for disclosing the underlying assumptions and deducting potential future developments over the short, medium and long term from these assumptions. Otherwise report audiences might question the accuracy and credibility of disclosures on climate-related risks and opportunities.

We would be very pleased to provide you with further information to you or answer any questions that you may have in relation to our comments.

Yours sincerely

Klaus-Peter Naumann

Chief Executive Officer