Position of the Association of German Public Insurers on the Joint Consultation Paper concerning ESG Disclosures according to the Disclosure Regulation

31 August 2020

The Association of German Public Insurers[1] welcomes the ESAs' consultation[2] on the proposed draft regulatory technical standards with regard to the content, methodologies and presentation of disclosures pursuant to Article 2a, Article 4(6) and (7), Article 8(3), Article 9(5), Article 10(2) and Article 11(4) of Regulation (EU) 2019/2088. As Germany's second largest primary insurance provider with a strong regional presence, the group is committed to constructive dialogue in the interests of all market participants and of a stable European and global insurance sector.

General Comments

Sustainability is of outmost importance for all public insurers. They have signed up to the "Principles for Responsible Investment" and take environmental, social and ethical principles into account when making investment decisions. Market-driven approaches play an important role when it comes to supporting the transition to a more sustainable economy. As major investors, public insurers create an enabling framework for sustainable investments. Nevertheless, decisions to carry out sustainable projects are taken by the real economy. In this light, expectations on the contribution of financial market participants should be realistic. To increase sustainable investments of the real economy, a significant CO_2-price with a clear development path would be the efficient instrument. All attempts to foster sustainable finance by increasing transparency should go hand in hand with measures to strengthen sustainable projects of the real economy.

[1] The Association of German Public Insurers (Verband öffentlicher Versicherer, VöV, www.voev.de) is the umbrella organisation of the German public insurance companies and a corporation established under public law. Founded in 1911, it represents 10 primary insurers across Germany that are deeply embedded in their regions. The group is the second-largest primary insurance provider in the German market, with more than EUR 144 billion of investments under management, thereby making a significant contribution to the European economy. The group is committed by law to support the public good. It has 52 million insurance contracts and pays out EUR 18.4 billion each year to its clients.
The public insurers employ 30,000 people. Through 17,500 own branches and offices of their partners, they offer advice and protection across most insurance sectors (health, life, pension, motor, indemnity, fire, etc.) for retail clients of all income groups and for professional clients, with a specific focus on small and medium-sized companies.
The Association of German Public Insurers represents the interests of its members at the national and the European level through its head offices in Berlin and Düsseldorf and its liaison office in Brussels.

[2] https://www.eiopa.europa.eu/content/joint-consultation-concerning-environmental-social-and-governance-esg-disclosures

The Disclosure Regulation can be an important puzzle piece in the comprehensive package of the European Green Deal. It will be most successful if it is

- simple to work with it for financial market participants and investors,
- well aligned with corresponding legal pieces (in particular the Taxonomy Regulation and the Non-Financial Reporting Directive),
- based on existing best practices (such as disclosure according to the Principles for Responsible Investment),
- flexible and it considers different providers of financial products,
- proportionate and easy to comply with for companies of all sizes, and
- based on real economy data provided in a public database.

With respect to these requirements, the association of German Public Insurers has several suggestions to improve the draft regulatory technical standards. All being members of the German Insurance Association (GDV), public insurers contributed to the comprehensive feedback of the GDV. For general points and questions not answered, public insurers also refer to the input of the GDV.

Specific Comments

The present remarks and the answers to selected questions of the consultation highlight topics that are of particular importance for the group of public insurers. They focus on the topics from the perspective of strong regional, medium-sized and small insurers. As signatories of the Principles for Responsible Investment, they actively engage in sustainability and emphasize proportionality. Key recommendations of public insurers comprise:

- Questions 1 & 4: The granularity of disclosure requirements should fit the needs of investors. The number of mandatory indicators should therefore be limited and financial market participants should be able to choose indicators corresponding to their individual sustainability strategies and products. 32 mandatory indicators neither reflect the information needs of investors nor insurers' individual sustainability strategies and priorities. Threshold levels could play an important role to avoid meaningless low indicators.
- Question 3: Sustainability disclosure will work best when financial market participants report a consistent set of data. The links between the Disclosure Regulation, the Taxonomy Regulation, the Non-Financial Reporting Directive and the Insurance Distribution Directive could be strengthened. Insurers need more clarity on the interplay and the overlap of concepts. Definitions like "do not significant harm" and "principal adverse impacts" should ideally be merged as they pursue similar objectives and at least be specified.
- Question 27: An alignment of the application dates of the Disclosure and Taxonomy Regulations as well as the changes of the Insurance Distribution Directive would significantly improve clarity for customers and insurers alike. Public insurers therefore suggest setting a joint application date of 1 January 2022 and a transitional period as

non-binding guideline until the implementation of the Non-Financial Reporting Directive and the availability of high quality data of the real economy.

- Questions 3 & 4: The regulatory technical standards should built upon existing best practices of sustainability disclosure like the Principles for Responsible Investment and the OECD guidelines on Responsible Business Conduct for Institutional Investors. They should not only focus on capital allocation, but also on stewardship and the dialogue with policymakers as second and third principal way for investors to contribute to sustainable objectives.
- Questions 3 & 4: The disclosure methodology should be suitable for the investment universe of insurers. The approach of principal adverse impacts focuses on shares, whereas the treatment of debt (bonds, in particular government bonds, covered bonds, etc.) needs clarification. Important indicators (for instance greenhouse gas emissions) are ownership-based and thus only attributable to equity. Assessment basis for various metrics should be clear and applicable in practice.
- Question 4: Data of investee objects for all mandatory indicators should be available in a standardized public database. This is also the only way to ensure comparability of the data. Reporting of the real economy data needed should be a requirement in the Non-Financial Reporting Directive. Financial market participants heavily rely on high-quality data of the real economy and should consider all the information in the database. An individual collection of data by each financial market participant directly from the invested companies is not appropriate and efficient for either side. Furthermore, the requirements should not implicitly create the obligation to rely on third-party providers of ESG data, in particular for small and medium-sized financial market participants. This is best done by ensuring that the required data is available in a public database.
- Question 3: Sustainability disclosure is important and should be prepared in a diligent way. Once regulatory technical standards are published, preparation and calculations of indicators and report takes time if done seriously. In view of the delay of the publication of the regulatory technical standards, a transition period would ensure the quality of disclosed information. A transition period with adjusted requirements should equally be in place until the necessary data of the real economy are published according to the Non-Financial Reporting Directive.
- Question 3: Proportionality is key for the success of sustainability disclosure. Small investments under a certain threshold should be excluded from the disclosure requirements to reflect this principle.

We are looking forward to continuing the fruitful exchange on Sustainable Finance.

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Annex

Answers to selected questions of the Consultation Document

Question 1: *Do you agree with the approach proposed in Chapter II and Annex I – where the indicators in Table 1 always lead to principal adverse impacts irrespective of the value of the metrics, requiring consistent disclosure, and the indicators in Table 2 and 3 are subject to an "opt- in" regime for disclosure?*

The Association of German Public Insurers suggests a number of improvements to facilitate implementation, in particular for small and medium-sized market participants.

First, public insurers proposes to decrease the number of mandatory indicators significantly and to create a stronger link between the "principal adverse impacts" and the environmental goals as well as the "do no significant harm-principle" in the Taxonomy Regulation. Not all indicators are material to individual sustainability strategies of companies. Public insurers propose to have five mandatory indicators and five optional ones to be picked by the market participant accordingly. This approach would ensure that retail investors receive a reasonable amount of information.

Second, indicators should only be mandatory after the revised Non-Financial Reporting Directive enters into force and data is available in an online database. Experience as signatories of the Principles for Responsible Investment shows, data availability and quality of data is a major bottleneck of sustainability disclosure.

Third, threshold levels should be in place to avoid metrics without explanatory power for customers. This is particularly relevant for the portfolio of insurers with limited equity exposures and significant investments into government bonds. Many company-related metrics are poorly applicable to the typical insurer's portfolio.

Question 2: *Does the approach laid out in Chapter II and Annex I, take sufficiently into account the size, nature, and scale of financial market participants activities and the type of products they make available?*

Public insurers suggest ensuring that data collection will not overburden financial market participants. A strong link between the Non-Financial Reporting Directive, in particular the mentioned database and all mandatory indicators is therefore essential. Investee companies should therefore feed their sustainability data in a format ready to use into this registry.

Furthermore, public insurers propose that financial market participants are only required to disclose data available in this registry. To ensure quality and comparability of data, disclosure of companies/investment objects that are not subject to the Non-Financial Disclosure Directive should not mandatory.

Question 3: *If you do not agree with the approach in Chapter II and Annex I, is there another way to ensure sufficiently comparable disclosure against key indicators?*

See also answers to questions 1 and 2. Public insurers propose to follow three principles:

1. Delivery by investee companies instead of active data collection by financial market participants
2. Limitation of the "best effort principle" by creating a strong link to the data provided according to the Non-Financial Reporting Directive
3. Application of disclosure requirements after the data of investee companies are available.

Question 4: *Do you have any views on the reporting template provided in Table 1 of Annex I?*

The number of 32 mandatory principal adverse impacts does neither reflect the ideas of proportionality nor materiality. Decreasing the number of indicators will improve readability and comparability of sustainability disclosure significantly. As mentioned before, a stronger link to the Taxonomy Regulation is needed in terms of definitions as well as application dates.

Question 9: *Do you agree with the goal of trying to deliver indicators for social and employee matters, respect for human rights, anti-corruption and anti-bribery matters at the same time as the environmental indicators?*

Public insurers see these indicators as important part of their sustainability strategies and activities. As with environmental indicators, they should be disclosed as soon as they are available in the proposed database according to the Non-Financial Reporting Directive.

Question 10: *Do you agree with the proposal that financial market participants should provide a historical comparison of principal adverse impact disclosures up to ten years? If not, what timespan would you suggest?*

Public insurers suggest to a mandatory timespan of five years. Many financial market participants will voluntarily disclose longer periods due to customer expectations. Financial market participants should not provide principal adverse impact data for years before the first application of the Disclosure Regulation.

Question 11: *Are there any ways to discourage potential "window dressing" techniques in the principal adverse impact reporting? Should the ESAs consider harmonising the methodology and timing of reporting across the reference period, e.g. on what dates the composition of investments must be taken into account? If not, what alternative would you suggest to curtail window dressing techniques?*

A strong alignment with the Non-Financial Reporting directive is key to ensure quality of the data and to avoid "window dressing". Furthermore, the prudent person principle enshrined

in the Solvency II Regulation already prevents “window dressing”. Public insurers do not see any benefit in the burdensome reporting of principal adverse impacts during a whole reference period. Reporting them for a specific date is sufficient.

Question 15: *Do you agree with the balance of information between pre-contractual and website information requirements? Apart from the items listed under Questions 25 and 26, is there anything you would add or subtract from these proposals?*

The Association of German Public Insurers supports the approach to limit pre-contractual information as much as possible. Furthermore, duplication of information on different channels must be avoided.

Question 16: *Do you think the differences between Article 8 and Article 9 products are sufficiently well captured by the proposed provisions? If not, please suggest how the disclosures could be further distinguished.*

Public insurers share the view that the distinction between the legal concepts of “sustainable investment products” and “products that promote environmental or social characteristics” will be difficult to understand for customers. The warning message “This product does not have as its objective sustainable investment” required by Article 16 (1) and Article 34 (3) is misleading and should be removed. Investors may understand the warning as contradictory to the environmental or social characteristics promoted by the product.

Question 27: *Do you have any views regarding the preliminary impact assessments? Can you provide more granular examples of costs associated with the policy options?*

Public insurers share the view that compliance cost of the preferred policy options are unnecessarily high. Furthermore, most cost are fixed and unrelated to the size of the financial market participant or adviser. Proportionality should therefore be increased according to the proposals made in the previous answers. Given the number and importance of issues mentioned in the previous answers, public insurers suggest a transitional period during which the reporting requirements are applied non-binding guidelines. This would be the preferred policy option, in particular with respect to the unavailability of real economy data before the implementation of the reviewed Non-Financial Reporting Directive and the high cost of data collection for financial market participants.