

Questionnaire by the High Level Expert Group on sustainable finance interim report

The BVI¹ gladly takes the opportunity to present its views on the Questionnaire by the High Level Expert Group on sustainable finance interim report.

*Question 1: From your constituency's point of view, what is the most important issue that needs to be addressed to move towards sustainable finance? (sustainable finance being understood as improving the contribution of finance to long-term sustainable and inclusive growth, as well as strengthening financial stability by considering material environmental, social and governance factors)
1500 characters maximum (spaces included)*

The most important issue from an asset manager's point of view are further improvements of reliability and comparability of data on material medium- to long-term risks and opportunities of companies. While we do not share the notion that the focus solely on short-term financial results is still common, high quality data would help clearing up such misinterpretation.

Amendments to the relevant directives with the aim of clarifying “fiduciary duty” are not the right way forward for the following reasons:

- The term fiduciary duty does neither exist in EU law nor in civil law countries. The understanding of what comprises fiduciary duty under common law is complex. Depending on which entity is involved, the term has a very different meaning.
- According to EU law, however, asset managers have to act in the client's best interest and with respect to the integrity of the market. Asset managers are strictly bound to the investment strategy as agreed with the investor. In case of institutional investors, these have a very clear understanding how their best interest is to be defined, in particular with respect to the investment strategy and how and to what extent ESG-criteria should be taken into account.
- Generally, amending directives should be a measure of last resort since they trigger legal uncertainty and hence represent the severest possible measure for market participants. The Freshfields' report of 2005 made it clear that there is generally no legal impediment to integrate ESG factors into investment decision-making. The 2015 UNEP-FI/PRI report on Fiduciary duty in the 21st century notes that this argument is accepted ten years later. It also clarifies that ESG factors are increasingly disclosed despite relatively little change in the law. Further need to facilitate the understanding, if any, that ESG-risks are properly taken into account in a day-to-day business could for instance involve increasing awareness of supervisors.

We appreciate that additional work could be done, e.g. by developing a common understanding of the requirement to act in the best interest of the investor or client in relation to sustainability.

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 over 100 members manage assets of nearly 3 trillion euros for private investors, insurance companies, pension and retirement schemes, banks, churches and foundations. BVI's ID number in the EU Transparency Register is 96816064173-47. For more information, please visit www.bvi.de/en.



Develop a classification system for sustainable assets and financial products

Question 2: What do you think such an EU taxonomy for sustainable assets and financial products should include?

1500 characters maximum (spaces included)

It is decisive that the work that has already been done is included in such development. This should comprise the Global Risk Report of the World Economic Forum and the Risk dashboards included therein as well as the EuroSIF's taxonomy for the European market. Further, it should include all three criteria "environmental, social and governance" since they interact.

A taxonomy should help researching megatrends systematically and should be used to define the financial impact on industries and/or specific companies. We believe that good practice could include consideration of data and research to analyse and monitor these risks and define an approach how to take into account the results of such analysis and monitoring. It should apply to all major asset classes and instruments equally and be comparable between available instruments.

Establish a European standard and label for green bonds and other sustainable assets

Question 3: What considerations should the EU keep in mind when establishing a European standard and label for green bonds and other sustainable assets? How can the EU ensure high-quality standards and labels that avoid misuse/green-washing?

1500 characters maximum (spaces included)

Green bond standards have already been developed to a certain level. There is, however, no common understanding what qualifies as a green bond. Regulatory standards can help achieving such common understanding.

The development of a voluntary European label for sustainable financial instruments could be of additional value. A European label is in particular relevant for products that are distributed cross-border. In order to ensure the decisive acceptance of investors, experience with already developed labels such as the FNG-Siegel (for Austria, Germany and Switzerland) or LuxFlag should be taken into account and analysed how they could be harnessed.

This should, however, not be confused with a new regulatory product such as ELTIFs and EuSEF which have in many cases proven not to be successful.

Create "Sustainable Infrastructure Europe" to channel finance into sustainable projects

Question 4: What key services do you think an entity like "Sustainable Infrastructure Europe" should provide, more specifically in terms of advisory services and connecting public authorities with private investors?

1500 characters maximum (spaces included)



We are hesitant that setting up a new entity is necessary to provide the desired outcome. It might be worth exploring whether a database for projects where potential investors or asset managers would have access would serve the purpose of financing infrastructure projects. Such database could be established at the EIB which already employs experienced staff. Furthermore, demand for advisory services and capacity of the European Investment Advisory Hub at the EIB should be properly assessed. Instead of establishing another European entity, we would consider it more efficient using and, where necessary, strengthening the existing EIB. In this regard, we would also question whether a local or national approach could provide advice in a similarly sound way.

We generally support the idea to improve private investors' access to infrastructure financing. In particular funds could serve as such vehicles. Due to low interest rates, investors are striving for investments in real assets. Therefore, there is a demand for investing in infrastructure projects. Unfortunately, the current restrictions in the ELTIF Regulation regarding both portfolio composition as well as additional requirements for marketing of units to retail investors have significant impact on the attractiveness of ELTIFs for both investors and fund managers. This includes marketing to entities like communities that do not qualify as professional investors. We therefore do not see the ELTIF filling this gap in the near future.

Mismatched time horizons and short-termism versus long-term orientation

Question 5: It is frequently stated that the inherent short-termism in finance, especially financial markets, represents a distraction from, or even obstacle to, a long-term orientation in economic decision-making, including investments that are essential for sustainability. Do you agree with this statement?

Yes / **No** / Don't know / no opinion / not relevant

Question 5.1: If you agree with this statement, which sectors of the economy and financial system are particularly affected by the 'mismatch of time horizons'? What are possible measures to resolve or attenuate this conflict?

1500 characters maximum (spaces included)

[Nicht gestattet, wenn wir Frage 5 mit nein beantworten. Wir haben Frage 5.1 unbeantwortet gelassen und Themen die wir hier ansprechen würden, eher in Frage 12 oder 13 aufgenommen.]

Governance of the investment and analyst community

Question 6: What key levers do you think the EU could use to best align the investment and analyst community with long-term sustainability considerations in the real economy?

1500 characters maximum (spaces included)

The EU could use the following levers:

- Improving reliability and comparability of data e.g. by way of standardisation with a focus on material information for a company's business models and its respective industry. Varying and uneven quality of data makes it complex to assess the relevant figures. In many cases less granular



information in aggregated form is available. Asset managers have to engage specific providers for tailored information which comes at a price for their clients and where it is unclear whether for the asset owner the benefits of tailored information outweigh the costs.

- Educate both market participants and supervisors on the relevance of long-term sustainability considerations.
- Facilitation of research on the benefits of taking long-term considerations into account. The lack of proof of the benefits and ability to value long-term risks might still be considered an obstacle.
- Analyse if, and if so where, there are lacks for standards for the valuation and reporting of sustainable infrastructure assets and improve the respective standards.
- Consider long-term reliability through the facilitation of the UN sustainable development goals.

While we do not agree with the notion that asset managers act exclusively with a short-term focus, the focus should neither be exclusively long-term. Asset managers agree with their clients on investment strategy and comply therewith. Asset owners (both private as well as professional investors) may have a mixture of short-term, medium-term and longer-term investment targets and asset managers must respect the mandate their clients have given them, be it short-term or long-term. Consequently, a prudent mix of short-, mid- and long-term investments according to the needs and in the best interest of investors (e.g. liquidity) should be the goal. It is also worth noting that some regulation still facilitates a short-term focus (see e.g. the requirement to report a 10 percent loss ad hoc to investors according to Art. 62 of the MiFID delegated regulation). Besides this, we oppose the allegation that asset managers require companies to take a short-term focus. Asset managers engage with companies with a focus on their long-term sustainable value creation because this will enhance and protect the long-term value of their clients' assets. Therefore, asset managers have e.g. continuously demanded claw back clauses for management bonuses in order to ensure that companies do not solely focus on short-term results.

A strong pipeline of sustainable projects for investment

Question 7: How can the EU best create a strong and visible pipeline of sustainable investment projects ready for investment at scale?

1500 characters maximum (spaces included)

Since the EU is not in the position to grant tax benefits, it is unclear whether it can create a strong pipeline of sustainable investment projects. The aforementioned levers could facilitate a pipeline of investment projects. The HLEG should be aware that for instance the directive on non-financial reporting, the Shareholder Rights Directive as well as the revised Institutions for Occupational Retirement Provision (IORP) Directive will extend the focus on sustainable investments, thereby increasing a demand for transparency of investee companies.

Furthermore, with respect to investee companies, establishment of a market standard takes some time. As of today, companies listed on the market with a high transparency level generally see the necessity to provide information on ESG as part of the investor communication, thereby in some instances creating an opportunity for a sustainable investment. Barriers to provide transparency with respect to ESG information for smaller companies are usually higher, in particular if no market standard for "peers" is established. Any support for smaller companies – e.g. by stock exchanges – could increase transparency on sustainable projects.

Integrating sustainability and long-term perspectives into credit ratings



Question 8: What are some of the most effective ways to encourage credit rating agencies to take into consideration ESG factors and/or long-term risk factors?

Please choose 1 option from the list below Comments

- Create a European credit rating agency designed to track long-term sustainability risks
- Require all credit rating agencies to disclose whether and how they consider TCFD-related information in their credit ratings
- Require all credit rating agencies to include ESG factors as part of their rating
- All of the above
- **Other**

Question 8.1: Please specify what other ways you would deem most effective in encouraging credit rating agencies to take into consideration ESG and/or long-term risk factors. Comments 1500 characters maximum (spaces included)

Insufficiently available, reliable and comparable data is an obstacle also for a long-term focus of ratings. In this respect, further standardisation of data could facilitate a mid and long-term focus of rating agencies.

Furthermore, we think that an ESG rating should comply with at least the following principles:

- Ratings should be comparable. For investors and asset managers, ratings are a relevant information tool for their investment decisions. Only if ratings follow a specific standard, market participants can compare ratings.
- Ratings should use several sources. The quality of a rating depends on the quality of the information used. A rating should not be based on one source only. Rather, rating providers should use different varied sources to properly assess the instrument/company they rate.
- Ratings should be transparent. In order to evaluate the rating, ratings should be clear about the set of rules the rating is based on and the major choices that are made based upon that set.

Role of banks

Question 9: What would be the best way to involve banks more strongly on sustainability, particularly through long-term lending and project finance? 1500 characters maximum (spaces included)

[keine Antwort eingereicht].

Role of insurers

Question 10: What would be the best way to involve insurers more strongly on sustainability, particularly through long-term investment? 1500 characters maximum (spaces included)

[keine Antwort eingereicht].



Social dimensions

*Question 11: What do you think should be the priority when mobilising private capital for social dimensions of sustainable development?
1500 characters maximum (spaces included)*

[keine Antwort eingereicht]

Other

*Question 12. Do you have any comments on the policy recommendations or policy areas mentioned in the Interim Report but not mentioned in this survey?
1500 characters maximum (spaces included)*

Regarding recommendation 7: We appreciate that the ESAs could undertake some clarifications, which could for instance include a solution how an asset manager could live up to its duty to act in the best interest of investors in case it is clear that taking into account ESG criteria for a specific investment will harm the financial returns. However, we do not see a role for the ESAs to assess ESG-related risks unless it is based on work undertaken by the national competent authorities. Proximity of a supervisor is indispensable for commensurate supervisory practices and a proper understanding of the relevant marketplace. This would be lost in case supervisory competences were transferred to the EU level.

Regarding recommendation 3: We would like to caution the HLEG to easily suggest changes to existing regulation. **The HLEG should rather propose an analysis how existing legislation can be further harnessed.** Any changes to existing legislation require a proper legislative process leading to another phase of policy and regulatory uncertainty in particular for market participants. Administrative measures as well as day-to-day supervision of financial market participants are much better suited to deal with misinterpretations and to facilitate a sustainable financial system than legislative measures.

Generally, we would like to point out that unlike a revision, a regulatory review does not automatically trigger amendments but is first and foremost an analysis of the existing legislation including an assessment whether amendments are necessary. Nevertheless, we appreciate the merit of a roadmap transparent to all market participants in order to align interests and actions of all players involved and to generate confidence and trust in the project.

*Question 13: In your view, is there any other area that the expert group should cover in their work?
1500 characters maximum (spaces included)*

Asset managers and other market participants are often accused to not act sustainable. We believe it could be helpful to improve data on responsible investments by asset managers and asset owners. For more than ten years, EuroSIF has undertaken to analyse the state of responsible investments in Europe. However, it is still unsolved whether and how the general inclusion of ESG issues into asset management as an overall approach can and should be properly depicted. In this regard, the HLEG could also analyse how a common understanding could be facilitated.



With respect to the considerations on asset managers, we struggle to understand why the HLEG does not take account of upcoming regulation. This is in particular relevant for the revised Shareholder Rights Directive which includes for instance the requirement to disclose an engagement policy as well as the votes cast. We therefore think the HLEG should re-evaluate the suggestion of a European Stewardship Code upon a thorough assessment of existing (such as the requirement to set up a voting policy for fund managers enshrined in both the UCITS- and the AIFM-framework) and upcoming legislation.