

## Details zur Offenlegung der Nachhaltigkeitsrisiken

**Stand: April 2021**

Am 10. März war die Offenlegungsverordnung umzusetzen. Teilweise war noch hektische Betriebsamkeit festzustellen, im Großen und Ganzen haben aber sehr viele Institute ihre Verpflichtung rechtzeitig erfüllt. Ob es ganz im Sinne des Gesetzgebers gelaufen ist, wage ich zu bezweifeln. Durch die enormen Anforderungen haben sich die allermeisten kleinen Institute für das sogenannte opt-out entschieden und veröffentlichen nunmehr auf ihrer Homepage, dass sie nachteilige Auswirkungen von Investitionsentscheidungen auf Nachhaltigkeitsfaktoren nicht berücksichtigen. Vielleicht wäre das Ergebnis anders ausgefallen, wenn man eine etwas unbürokratischere Form gewählt hätte.

Leider wird sich dieser Trend aber auch nicht umkehren. Am 2. Februar haben die europäischen Aufsichtsagenturen ESMA, EBA und EIOPA ihren Final Report für die Detailumsetzung vorgestellt. Der Entwurf für die Detailregelung umfasst 90 Seiten und wird viele Institute darin bestärken, am opt-out festzuhalten.

Da es sich schon um die zweite Anhörung handelt, wird sich an diesem Entwurf wahrscheinlich nicht mehr allzu viel ändern. Die Grundprinzipien will ich Ihnen gerne nachfolgende vorstellen:

Zunächst einmal sollen die Veröffentlichungen einem Standard folgen, der jeweils in den Anlagen vorgestellt wird, das soll die Vergleichbarkeit der Veröffentlichungen sicherstellen. Die allgemeinen Aussagen zur Strategie sollen auf der Homepage in einem separaten Titel mit der Überschrift „principal adverse sustainability impacts statement“ veröffentlicht werden, ich hoffe es bleibt bei der englischen Version, die deutsche Übersetzung wäre schlicht schrecklich. In diesem Fenster soll eine Zusammenfassung und eine Beschreibung der nachteiligen Auswirkungen von Investitionsentscheidungen auf Nachhaltigkeitsfaktoren folgen, dazu eine Beschreibung der Policies zur Festlegung und Priorisierung der nachteiligen Auswirkungen auf Nachhaltigkeitsfaktoren folgen, ebenso Engagement Policies und Bezugnahmen auf internationale Standards. Die Darstellungen zu den Strategien soll nicht länger als zwei DIN A4-Seiten sein.

Dann wird es kompliziert, denn dann folgt die Aufzählung der Indikatoren, zu denen die Institute Stellung nehmen sollen:

Der Entwurf enthält in Anlage 1 eine Liste der wichtigsten nachteiligen Nachhaltigkeitsauswirkungen, zu denen Stellung genommen werden soll. Das sind die folgenden:

CLIMATE AND OTHER ENVIRONMENT-RELATED INDICATORS	
1. GHG emissions	Scope 1 GHG emissions Scope 2 GHG emissions From 1 January 2023, Scope 3 GHG emissions Total GHG emissions
2. Carbon footprint	Carbon footprint
3. GHG intensity of investee companies	GHG intensity of investee companies
4. Exposure to companies active in the fossil fuel sector	Share of investments in companies active in the fossil fuel sector
5. Share of non-renewable energy consumption and production	Share of non-renewable energy consumption and non-renewable energy production of investee companies from non-renewable energy sources compared to renewable energy sources, expressed as a percentage
6. Energy consumption intensity per high impact climate sector	Energy consumption in GWh per million EUR of revenue of investee companies, per high impact climate sector
7. Activities negatively affecting biodiversity-sensitive areas	Share of investments in investee companies with sites/operations located in or near to biodiversity-sensitive areas where activities of those investee companies negatively affect those areas
8. Emissions to water	Tonnes of emissions to water generated by investee companies per million EUR invested, expressed as a weighted average
9. Hazardous waste ratio	Tonnes of hazardous waste generated by investee companies per million EUR invested, expressed as a weighted average
10. Violations of UN Global Compact principles and Organisation for Economic Cooperation and Development (OECD) Guidelines for Multinational Enterprises	Share of investments in investee companies that have been involved in violations of the UNGC principles or OECD Guidelines for Multinational Enterprises
11. Lack of processes and compliance mechanisms to monitor compliance with UN Global Compact principles and OECD Guidelines for Multinational Enterprises	Share of investments in investee companies without policies to monitor compliance with the UNGC principles or OECD Guidelines for Multinational Enterprises or grievance /complaints handling mechanisms to address violations of the UNGC principles or OECD Guidelines for Multinational Enterprises
12. Unadjusted gender pay gap	Average unadjusted gender pay gap of investee companies
13. Board gender diversity	Average ratio of female to male board members in investee companies
14. Exposure to controversial weapons (anti-personnel mines, cluster munitions, chemical weapons and biological weapons)	Share of investments in investee companies involved in the manufacture or selling of controversial weapons

15. GHG intensity	GHG intensity of investee countries
16. Investee countries subject to social violations	Number of investee countries subject to social violations (absolute number and relative number divided by all investee countries), as referred to in international treaties and conventions, United Nations principles and, where applicable, national law
17. Exposure to fossil fuels through real estate assets	Share of investments in real estate assets involved in the extraction, storage, transport or manufacture of fossil fuels
18. Exposure to energy-inefficient real estate assets	Share of investments in energy-inefficient real estate assets

Damit nicht genug, der Vorschlag verpflichtet zusätzlich, weitere Indikatoren aus den Bereichen Klima und Umwelt, wie sie in einer Tabelle 2 vorgestellt sind, sowie soziale Faktoren aus den Bereichen Arbeitsschutz, Menschenrechte und Anti-Korruption darzustellen. Das sind folgende Aspekte:

CLIMATE AND OTHER ENVIRONMENT-RELATED INDICATORS	
1. Emissions of inorganic pollutants	Tonnes of inorganic pollutants equivalent per million EUR invested, expressed as a weighted average
2. Emissions of air pollutants	Tonnes of air pollutants equivalent per million EUR invested, expressed as a weighted average
3. Emissions of ozone depletion substances	Tonnes of ozone depletion substances equivalent per million EUR invested, expressed as a weighted average
4. Investments in companies without carbon emission reduction initiatives	Share of investments in investee companies without carbon emission reduction initiatives aimed at aligning with the Paris Agreement
5. Breakdown of energy consumption by type of non-renewable sources of energy	Share of energy from non-renewable sources used by investee companies broken down by each non-renewable energy source
6. Water usage and recycling	<ol style="list-style-type: none"> <li>1. Average amount of water consumed and reclaimed by the investee companies (in cubic meters) per million EUR of revenue of investee companies</li> <li>2. Weighted average percentage of water recycled and reused by investee companies</li> </ol>
7. Investments in companies without water management policies	Share of investments in investee companies without water management policies
8. Exposure to areas of high water stress	Share of investments in investee companies with sites located in areas of high water stress without a water management policy
9. Investments in companies producing chemicals	Share of investments in investee companies the activities of which fall under Division 20.2 of Annex I to Regulation (EC) No 1893/2006

10.	Land degradation, desertification, soil sealing	Share of investments in investee companies the activities of which cause land degradation, desertification or soil sealing
11.	Investments in companies without sustainable land/agriculture practices	Share of investments in investee companies without sustainable land/agriculture practices or policies
12.	Investments in companies without sustainable oceans/seas practices	Share of investments in investee companies without sustainable oceans/seas practices or policies
13.	Non-recycled waste ratio	Tonnes of non-recycled waste generated by investee companies per million EUR invested, expressed as a weighted average
14.	Natural species and protected areas	1.Share of investments in investee companies whose operations affect threatened species 2.Share of investments in investee companies without a biodiversity protection policy covering operational sites owned, leased, managed in, or adjacent to, a protected area or an area of high biodiversity value outside protected areas
15.	Deforestation	Share of investments in companies without a policy to address deforestation
16.	Share of securities not certified as green under a future EU legal act setting up an EU Green Bond Standard	Share of securities in investments not certified as green
17.	Share of bonds not certified as green under a future EU act setting up an EU Green Bond Standard	Share of bonds not certified as green
18.	GHG emissions	<ul style="list-style-type: none"> <li>• Scope 1 GHG emissions generated by real estate assets</li> <li>• Scope 2 GHG emissions generated by real estate assets</li> <li>• From 1 January 2023, Scope 3 GHG emissions generated by real estate assets</li> <li>• Total GHG emissions generated by real estate assets</li> </ul>
19.	Energy consumption intensity	Energy consumption in GWh of owned real estate assets per square meter
20.	Waste production in operations	Share of real estate assets not equipped with facilities for waste sorting and not covered by a waste recovery or recycling contract
21.	Raw materials consumption for new construction and major renovations	Share of raw building materials (excluding recovered, recycled and biosourced) compared to the total weight of building materials used in new construction and major renovations
22.	Land artificialisation	Share of non-vegetated surface area (surfaces that have not been vegetated in ground, as well as on roofs, terraces and walls) compared to the total surface area of the plots of all assets

SOCIAL AND EMPLOYEE, RESPECT FOR HUMAN RIGHTS, ANTI-CORRUPTION AND ANTI-BRIBERY MATTERS	
1. Investments in companies without workplace accident prevention policies	Share of investments in investee companies without a workplace accident prevention policy
2. Rate of accidents	Rate of accidents in investee companies expressed as a weighted average
3. Number of days lost to injuries, accidents, fatalities or illness	Number of workdays lost to injuries, accidents, fatalities or illness of investee companies expressed as a weighted average
4. Lack of a supplier code of conduct	Share of investments in investee companies without any supplier code of conduct (against unsafe working conditions, precarious work, child labour and forced labour)
5. Lack of grievance/complaints handling mechanism related to employee matters	Share of investments in investee companies without any grievance/complaints handling mechanism related to employee matters
6. Insufficient whistleblower protection	Share of investments in entities without policies on the protection of whistleblowers
7. Incidents of discrimination	1. Number of incidents of discrimination reported in investee companies expressed as a weighted average  2. Number of incidents of discrimination leading to sanctions in investee companies expressed as a weighted average
8. Excessive CEO pay ratio	Average ratio within investee companies of the annual total compensation for the highest compensated individual to the median annual total compensation for all employees (excluding the highest-compensated individual)
9. Lack of a human rights policy	Share of investments in entities without a human rights policy
10. Lack of due diligence	Share of investments in entities without a due diligence process to identify, prevent, mitigate and address adverse human rights impact
11. Lack of processes and measures for preventing trafficking in human beings	Share of investments in investee companies without policies against trafficking in human beings
12. Operations and suppliers at significant risk of incidents of child labour	Share of investments in investee companies exposed to operations and suppliers at significant risk of incidents of child labour exposed to hazardous work in terms of geographic areas or type of operation
13. Operations and suppliers at significant risk of incidents of forced or compulsory labour	Share of the investments in investee companies exposed to operations and suppliers at significant risk of incidents of forced or compulsory labour in terms in terms of geographic areas and/or the type of operation

14.	Number of identified cases of severe human rights issues and incidents	Number of cases of severe human rights issues and incidents connected to investee companies on a weighted average basis
15.	Lack of anti-corruption and anti-bribery policies	Share of investments in entities without policies on anti-corruption and anti-bribery consistent with the United Nations Convention against Corruption
16.	Cases of insufficient action taken to address breaches of standards of anti-corruption and anti-bribery	Share of investments in investee companies with identified insufficiencies in actions taken to address breaches in procedures and standards of anti-corruption and anti-bribery
17.	Number of convictions and amount of fines for violation of anti-corruption and anti-bribery laws	Numbers of convictions and amount of fines for violations of anti-corruption and anti-bribery laws by investee companies
18.	Average income inequality score	The distribution of income and economic inequality among the participants in a particular economy including a quantitative indicator explained in the explanation column
19.	Average freedom of expression score	Measuring the extent to which political and civil society organisations can operate freely including a quantitative indicator explained in the explanation column
20.	Average human rights performance	Measure of the average human right performance of investee countries using a quantitative indicator explained in the explanation column
21.	Average corruption score	Measure of the perceived level of public sector corruption using a quantitative indicator explained in the explanation column
22.	Non-cooperative tax jurisdictions	Investments in jurisdictions on the EU list of non-cooperative jurisdictions for tax purposes
23.	Average political stability score	Measure of the likelihood that the current regime will be overthrown by the use of force using a quantitative indicator explained in the explanation column
24.	Average rule of law score	Measure of the level of corruption, lack of fundamental rights, and the deficiencies in civil and criminal justice using a quantitative indicator explained in the explanation column

Aus dieser zweiten Tabelle ist es aber ausreichend, wenn die Institute sich mindestens einen Faktor herausgreifen und bei den wichtigsten nachteiligen Nachhaltigkeitsauswirkungen ihre Investments darstellen.

Die größte Schwierigkeit wird darin liegen, die Nachhaltigkeitsauswirkungen nicht nur allgemein anhand der Indikatoren zu beschreiben, sondern auf Basis von Zahlen mit einer konkreten Berechnung der Auswirkung der Investments auf die jeweiligen Indikatoren. Dazu sollen pro Jahr jeweils am 31. März, 30. Juni, 30. September und 31. Dezember Berechnungen durchgeführt werden und der Durchschnitt aus diesen

vier Berechnungen angesetzt und dann veröffentlicht werden. Zusätzlich soll ein Vergleich zu den Berechnungen des vorigen Jahres durchgeführt und veröffentlicht werden. Dies mag zwar in der Theorie nützlich sein, wird aber für viele Finanzmarktteilnehmer unmöglich sein. Dies liegt schon daran, dass die entsprechenden Daten von den jeweiligen Emittenten nicht veröffentlicht werden. Um diese Anforderung zu erfüllen, wird sich der jeweilige Finanzmarktteilnehmer an professionelle Anbieter wenden müssen, die eine Auswertung bei den jeweiligen Unternehmen vornehmen.

Möglicherweise wird es in Zukunft zentrale Datenbanken von Bloomberg, Sustainalytics, den Wertpapiermitteilungen oder anderen geben, die den Instituten diese Datengrundlage liefern können. Aus eigenem Research wird das zumindest für kleine Institute unmöglich sein.

Leider müssen wir damit rechnen, dass möglicherweise noch in diesem Jahr die Vorschläge von der EU-Kommission umgesetzt werden und damit für die Institute verpflichtend werden. Sollte das so kommen, wird den kleineren Instituten nichts anderes übrigbleiben, als den Weg des opt-out zu gehen. Die Institute müssen dann nach Art. 4 Abs. 1 b) der Offenlegungsverordnung klare Gründe veröffentlichen, warum sie die nachteiligen Auswirkungen von Investitionsentscheidung auf Nachhaltigkeitsfaktoren nicht berücksichtigen. Gründe dafür gibt es viele, das geht von der fehlenden Logistik bis hin zu den rechtlichen Unsicherheiten.

Schade um den Arbeitsaufwand, gut gemeint ist eben nicht immer gut gemacht.

Mit den besten Grüßen  
Ihr

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