ERT

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ERT POSITION ON THE PROPOSAL FOR A REGULATION ON THE ESTABLISHMENT OF A FRAMEWORK TO FACILITATE SUSTAINABLE INVESTMENT

Introduction

The European Round Table of Industrialists (ERT) is a forum bringing together around 50 Chief Executives and Chairmen of major multinational companies of European parentage covering a wide range of industrial and technological sectors. Companies of ERT Members are widely situated across Europe, with combined revenues exceeding €2,250 billion, sustaining around 6.8 million jobs in the region. They invest more than €50 billion annually in R&D, largely in Europe.

ERT strives for a strong, open and competitive Europe, with the EU, including its Single Market, as a driver for inclusive growth and sustainable prosperity. ERT Members firmly believe that Europe's prosperity depends on the competitiveness of the European economy, which in turn requires a sound, stable and well-managed political environment.

The ERT Member companies are ready to contribute to the implementation of the Paris Agreement. Climate action has become part of their strategic business agenda, which was demonstrated by various case studies in ERT's "Naturally active for the climate" - http://active4climate.ert.eu/. However, low-carbon investment and innovation can only thrive with a globally competitive European industry that is able to deliver the solutions for a successful low-carbon transition.

Key messages

1. We share the European Commission's view that meeting Europe's 2030 climate goals and Paris Agreement commitments will require huge, transformative investments by both the private and public sectors. We therefore welcome the legislative proposals on sustainable finance, including the Regulation on the establishment of a framework to facilitate sustainable investment.

2. We agree with the Commission that a common framework (taxonomy) would be a useful measure in order to support businesses, investors, issuers and other market participants to identify to what degree economic activities can be considered environmentally-sustainable and provide greater clarity to the markets.

3. However, this regulatory approach must be both science-based and evidence-led and it should better reflect the latest sustainability efforts and investments in technology and elsewhere being planned and undertaken by Europe's real economy sectors. "Real Economy" voices must be represented in the Commission's expert advisory groups. Otherwise the Regulation risks undermining European industry's existing investments and technological innovations and therefore Europe's ability to

respond to climate change and other sustainability challenges, while remaining a competitive region to do business and invest.

In the following, we would like to address the most important regulatory issues and challenges.

Definition and interpretation

- **Ensuring a high degree of market confidence in the policy definitions and regulatory criteria:** The policy framework will only have a supporting effect if all market participants, many of whom are multinational players exposed to definitions used in other markets, can have a strong, shared degree of confidence in the definition of what "sustainability" means. Accordingly, the regulatory definitions and criteria should be underpinned by credible scientific evidence and reflect the latest, relevant technological developments.

- **Ensuring practical, fit-for-purpose definitions:** The guiding work of the Intergovernmental Panel on Climate Change (IPCC) and others acknowledges that the definition of what is "sustainable" continues to evolve, as it has for decades. Therefore, it is vital to ensure that the EU policy approach focuses on delivering "positive environmental impact investment" as its first priority without undermining wider European economic development and recognising that every credible academic definition of "sustainability" encompasses economic as well as environmental and social factors.

- **Ensuring an EU-wide harmonised approach:** Since the criteria are not self-explanatory and might be subject to differing interpretations by national authorities and the ESAs, a confirmation that all activities conform to the same definition of sustainability should be issued by a competent authority and be legally binding across the EU. This would provide the necessary level of legal certainty for all market participants.

- **Ensuring fair and effective regulatory process and avoiding "regulatory gold-plating":** The ultimate definitions of as yet-undefined legal terms should not be delegated to supervisory authorities after the framework comes into force but needs to be clarified and specified ex-ante. Specific terms within the regulatory texts with material leveraging effects include for example "significant" and "substantially". A situation should be avoided in which criteria and definitions will be amended and substantially gold-plated through delegated acts beyond what the Council of the EU and European Parliament have agreed in the Regulation.

- **Encourage, where feasible, alignment with existing green taxonomies:** In order to ensure a credible and competitive policy scheme in the EU, global companies based in Europe would benefit from a consistent global taxonomy to drive positive environmental impact investing. Having to abide by multiple sets of rules would effectively discourage the rapid supply and take-up of such investment. Existing taxonomies, for example ICMA's June 2018 rules underpinning Green Bonds[1], are themselves relatively new and evolve fast, suggesting there should be an opportunity to work – perhaps over time – to a consistent end point.

[1] https://www.icmagroup.org/green-social-and-sustainability-bonds/green-bond-principles-gbp/

- **Ensure that voices representing Europe's "Real Economies" have a genuine role in this area of policy development:** ERT would like to emphasise the importance of including business representatives from the real economy in the expert group that is tasked with developing the technical details for the taxonomy. The outcome will be much more credible to the wider industry if representatives from at least three of Europe's key industrial sectors are included in the expert group.

Scope of application

- **Avoiding "regulatory creep":** So far it is still unclear what dimensions the concept of an "environmentally sustainable activity" encompasses. Both the Regulation and framework should unequivocally specify from the outset the activities' dimensions to which it will be applied (e.g. environmentally-relevant aspects vs. climate-related aspects). Clear guidance as to whether sustainable activities can be regarded as "green" or sustainable (and hence be linked to sustainable financing activities) should be provided by the European Commission. Generally, the framework should focus on sustainable activities as it is almost impossible to classify companies as "green" or sustainable. Even companies within the same industry or business areas within the same company can have different business concepts. Such a "one fits all" approach seems not appropriate to judge the degree of sustainability. The aim should be to support capital spending decisions for investors interested in sustainable investments. However, preferences of investors regarding aspects of sustainability can vary. In this regard the European Commission should provide a framework whose criteria can be taken into account by investors, issuers and other market participants when evaluating activities as sustainable.

- **Ensuring the taxonomy can be reopened at timely junctures to address wider environmental, social and governance (ESG) sustainability factors:** The current proposal only addresses the climate aspects of the classification of economic activities, leaving the remaining components of a truly ESG sustainable strategy uncovered (albeit Article 17 caters for revising and extending criteria). Sustainability is not only about protecting the environment but, in our understanding, also covers social and governance aspects. It needs to be ensured that the scope of the taxonomy can be enlarged over time. Therefore, clarity should be provided in the Regulation about the inclusion of review clauses for the taxonomy including when the first review would be made, how regularly thereafter and what regulatory process would be adopted to review the taxonomy.

- **Ensuring European policy thought-leadership plays a key role in the global context:** We are also concerned about weakening or even adverse effects to the global competitiveness of corporations based in the EU if a sustainability taxonomy and framework were to be introduced only in Europe. Therefore, ERT Members would be willing to promote the European framework for these criteria to be applied globally, assuming a fair and credible, fit-for-purpose framework is developed and adopted in the EU.

Implementation

- **Avoiding unnecessary or disproportionate regulatory cost burdens:** In order to avoid disproportionate costs for financial market participants the framework should not detrimentally overlap or even contradict existing laws and regulations. A clear and precisely defined taxonomy must be harmonised, aligned and fully consistent with existing rules and regulations in order to be applicable, accepted and ultimately serve as a reliable and effective guideline for sustainable and green financing activities.

- **Ensuring a sufficiently progressive approach to translating economic activities into sustainability:** Determination of sustainable activities should not solely be based on past performance figures (e.g. sales or revenues), which reflect the consequences of historic capital investment decisions and past economic behaviours. It should also and primarily be based on future activities that will be undertaken in the period leading up to the EU's 2030 climate goals. This should for example include capital investment as well as other qualitative and quantitative factors.

- **Ensuring a positive taxonomy environment that avoids adverse economic and financing consequences:** Overly restrictive regulatory requirements for determining what constitutes a sustainable investment or activity could undermine a well-functioning capital market and may eventually lead to severe refinancing problems for corporations. This would be detrimental for the European Capital Markets Union and have negative consequences for European industry, consumers and job creation. We support an "opt-in", incentive-led approach to this nascent policy area as an effective way to ensure policy outcomes are delivered without unintended adverse economic consequences. The future establishment of standards and labels for sustainable financial products, as announced in the Commission's Action Plan on Sustainable Finance should provide incentives (rather than harsh rules, which may only serve to undermine competitiveness and potentially lead to global competitive disadvantages) for market participants. A positive taxonomy should guide companies towards the most efficient and sustainable way of addressing an economic activity without de facto penalising any of them. We would not, for example, support the inclusion of a "black-list" into the framework. The proposed approach leaves the door open to potential exclusions.

Monitoring and reporting

- **Ensuring the EU is supporting progression towards higher globalised standards of common reporting:** The disclosure obligations laid down in this Regulation must be carefully set in order to avoid disproportionate burdens on corporate reporting and disclosures as well as to avoid adverse consequences on competitiveness of EU companies. Alignment with non-EU "green" frameworks or initiatives should be considered (e.g. "The need for a common language in Green Finance" from the European Investment Bank and the Green Finance Committee of China Society for Finance and Banking).

- Lastly it is important that a framework does not materially change the reporting framework and does not amend the current IFRS endorsement process.