

MEMO# 32704

August 25, 2020

French Securities Regulator (AMF) Publishes New Requirements for Marketing Retail ESG Funds into France

[32704]

August 25, 2020 TO: ICI Global Members
ESG Task Force (Global)
EU ESG Disclosure Regulation Working Group
EU Sustainable Finance Strategy Working Group
ICI Global Regulated Funds Committee SUBJECTS: Compliance
Disclosure
Distribution
ESG
International/Global
Investment Advisers
MiFID, EMIR, AIFMD, UCITS V RE: French Securities Regulator (AMF) Publishes New
Requirements for Marketing Retail ESG Funds into France

The French securities regulator, the Autorité des marchés financiers (AMF), published a document in March (updated in July) that sets minimum standards for funds that emphasize consideration of non-financial criteria (e.g., ESG, sustainable, green) as a central component of their communications or that include it in the fund's name.[\[1\]](#) In connection with these new requirements, the AMF also published new marketing authorization forms that must be submitted for new and existing ESG funds.[\[2\]](#) The new standards apply to retail-sold funds marketed in France. Cross-border ESG funds marketed into France that do not comply with these standards would need to include a prominent disclaimer in their marketing materials.[\[3\]](#)

New minimum standards

The new requirements create the following standards for referencing the consideration of non-financial characteristics in the fund's name and in its marketing documents and other materials:

1. **ESG in marketing and in fund name ('significantly engaging approach').** In order to refer to the consideration of non-financial characteristics in the fund's name and in its marketing documents and other materials, the fund must disclose, at a minimum, *significant* measurable objectives, main methodological limits of the

approach, etc. A fund's consideration of non-financial criteria "must have a significant impact" on those objectives. The AMF provides detailed criteria on how meet this requirement.^[4] Note these criteria are consistent with (although not exclusive to) the thresholds defined by the French SRI fund label.

2. **ESG in marketing but not in fund name ('non-significantly engaging approach').** In order to mention non-financial consideration in its Key Investor Information Document (KIID) (in a concise and balanced manner) and in its marketing material (in a concise manner), the fund must disclose, at a minimum, measurable objectives, main methodological limits of the approach, etc.^[5] The KIID and marketing material information must be presented 'in a concise manner,'^[6] and the fund may not refer to non-financial aspects in its name.
 - As an example, this category would apply to funds that exclude certain controversial activities (e.g. tobacco, arms, pornography, etc.) but where the fund does not use any other of the approaches that qualify as 'significantly engaging.'^[7]
3. **ESG only in prospectus.** All other funds may present non-financial characteristics in the prospectus in a proportionate way, but may not communicate on non-financial characteristics outside of the prospectus.

Compliance dates

- ESG funds already marketed in France as of 10 March 2020: New requirements apply on 10 March 2021 (aligned with the compliance data for the Disclosure Regulation's product-level disclosure requirements). If a manager modifies an existing ESG fund to delete references to ESG, the AMF requires it to notify the fund's investors.
- ESG funds applying between 12 March and 22 July 2020 to market into France: New requirements apply on 30 September 2020.
- ESG funds applying to market into France after 22 July 2020: New requirements apply immediately.

Links to potential EU-level work on minimum standards for ESG funds

The objective of the AMF's Position/Recommendation is to prevent risks of greenwashing for retail clients by creating minimum standards for retail-marketed ESG funds. The AMF views this Position/Recommendation as consistent with, but separate from, the EU product-level disclosure requirements in the Disclosure Regulation.

We note the AMF recently recommended that the Commission set EU-level minimum standards for ESG funds, consistent with the AMF Position/Recommendation, using the upcoming review of UCITS and AIFM Directives.^[8] The AMF also recommended an EU-level label for ESG funds, increased corporate disclosure of ESG data, and regulation of third party ESG data providers in its response to the European Commission's recent consultation on its renewed sustainable finance strategy.^[9]

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endnotes

- [1] See AMF Position/Recommendation (DOC-2020-03): Information to be provided by collective investment schemes incorporating non-financial approaches (11 March 2020, updated on 28 July 2010). The updated document is *available at* https://doctrine.amf-france.org/en_US/Reglementation/Doctrine/Doctrine-list/Doctrine?docVersion=2.0&docId=workspace%3A%2F%2FSpacesStore%2F138e8494-3731-476e-a7da-7bf79200c1a2&category=II+-+Investment+products#fragment-1 (click on 'download document'). The press release and summary are *available at* <https://www.amf-france.org/en/news-publications/news/sustainable-finance-and-collective-investment-management-amf-publishes-update-its-investor>. The original 11 March 2020 press release is *available at* <https://www.amf-france.org/en/news-publications/news-releases/amf-news-releases/sustainable-finance-and-collective-management-amf-publishes-first-policy-investor-information>.
- [2] The AMF published the marketing authorization forms on 16 July 2020, *available at* <https://www.amf-france.org/en/news-publications/news/sustainable-finance-and-collective-management-amf-updates-its-policy-collective-investments>.
- [3] See AMF Position/Recommendation (DOC-2020-03), Position 17 on pp. 17-18.
- [4] See AMF Position/Recommendation (DOC-2020-03), Position 2 on pp. 6-7.
- [5] See AMF Position/Recommendation (DOC-2020-03), Position n°2 bis on p. 9.
- [6] The AMF defines “concise” as communications that are secondary to the presentation of product characteristics both in terms of breadth and positioning in the document ; neutral (no special emphasis or visuals); limited to less than 10% of the volume occupied by the presentation of the product's investment strategy. See AMF Position/Recommendation (DOC-2020-03), p. 5.
- [7] See AMF Position/Recommendation (DOC-2020-03), on p. 8.
- [8] See Sustainable finance: Progress to date and missing pieces: views from the regulator (24 July 2020), *available at* <https://www.amf-france.org/en/news-publications/public-consultations/sustainable-finance-progress-date-and-missing-pieces-views-regulator>.
- [9] See AMF's response to the European Commission's consultation for a Renewed sustainable finance strategy (24 July 2020), *available at* <https://www.amf-france.org/en/news-publications/public-consultations/amfs-response-european-commissions-consultation-renewed-sustainable-finance-strategy>.