

**MEMO# 32685**

August 19, 2020

## **EU ESG: AMF Views on Disclosure Regulation RTS**

[32685]

August 19, 2020 TO: EU ESG Disclosure Regulation Working Group RE: EU ESG: AMF Views on Disclosure Regulation RTS

We have reached out to the Autorité des Marchés Financiers (AMF) to speak about both the proposed regulatory technical standards (RTS) for the Sustainable Finance Disclosure Regulation (SFDR) and the AMF doctrine on ESG funds marketed into France.[\[1\]](#)

We also wanted to share a particularly helpful document from the AMF that gives an overview of the SFDR and draft RTS (pp. 1-10), encourages industry to submit feedback to the European Supervisory Authorities (ESAs) on the RTS, and flags a few areas in the draft RTS for particular focus (pp. 10-12).[\[2\]](#) This last section provides a sense of where the AMF thinks clarification or changes may be needed.

**Overview of “sustainable investments” and “do no significant harm” (DNSH).** The overview portion of the document has a very helpful discussion and accompanying chart (pp. 8-9) explaining how the disclosure of “sustainable investments” (and DNSH) is intended to work for Article 8 vs. Article 9 products.

**RTS areas flagged by AMF.** Notably, the AMF publication “invites all stakeholders to respond [to the RTS consultation] so that any difficulties can be taken into account in the finalisation phase of these standards.” The AMF flags a few particular areas for focus as follows (pp. 10-12), and we kept the AMF’s original language below to give you a better sense of their thinking:

- **Principal Adverse Impact (PAI) indicators.** The public consultation raises, in particular, the question of the choice of these harmonised indicators, especially in the light of the availability and cost of the data needed for this reporting. Respondents’ attention is drawn to the fact that, as it stands, the text encourages the use of data providers and estimates in cases where the data is not directly available from issuers. The text also assumes full coverage of the investments made by the actor concerned, without distinction according to the types of assets or the geographical area.
- **Binary nature of PAI disclosure.** Another background element to be retained concerning this framework applicable to reporting on principal adverse impacts is that the mechanism would be identical for all players reporting that they take into account

the main negative impacts, whether by legal obligation (financial market participants with more than 500 employees, at individual or consolidated level) or by choice.

- **DNSH.** The Taxonomy Regulation amended the Disclosure Regulation and directed the ESAs to specify the content of the transparency expected as to compliance with the "do no significant harm" (DNSH) principle. The mandate also specifies that this transparency must establish a direct link with the adverse impact indicators. This mandate thus has the advantage of clarifying concepts and establishing more obvious links between them. Nevertheless, given the lack of time (the mandate was attributed a few days before the last working meeting), the Joint Committee was only able to propose a draft response, limiting itself to establishing the link with the adverse impact indicators. It is therefore requested that, where appropriate, asset managers explain how these indicators are taken into account to measure the absence of significant harm to the ESG factors of investments that it presents as sustainable. Feedback from professionals is particularly awaited on this point, which needs to be fine-tuned.

The AMF publication also mentions controversy about the "exposure to the solid fossil fuels sector" indicator. For the product-level disclosure RTS, the AMF mentioned the level of granularity of pre-contractual disclosure, treatment of ESG integration, and the use of templates.

We hope this is helpful.

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#### endnotes

[1] See AMF, *Sustainable finance and collective investment management: the AMF publishes an update of its investor information policy* (28 July 2020), available at <https://www.amf-france.org/en/news-publications/news/sustainable-finance-and-collective-investment-management-amf-publishes-update-its-investor>. This publication updates the AMF's *Position-Recommendation 2020-03* (11 March 2020), 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] See AMF, *Overview of the main provisions of the draft RTS currently undergoing consultation related to the Disclosure Regulation* (28 July 2020), available at <https://www.amf-france.org/en/news-publications/public-consultations/public-consultation-draft-rts-relating-disclosure-regulation>.

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