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## **Implementation of the SFDR regulation for asset management companies as of March 10, 2021**

**Certain provisions of European Regulation (EU) 2019/2088, known as the Sustainable Finance Disclosure Regulation (“SFDR”), will come into force on March 10, 2021. The AMF is now clarifying the relationship between these new obligations and national requirements, and the position-recommendation DOC-2020-03 on the information to be provided by collective investment schemes integrating non-financial approaches.**

### **Definition of two new categories of products with non-financial characteristics**

SFDR defines two main categories of products :

- products that promote environmental and/or social characteristics ("Article 8" products) and ;
- products that have sustainable investment as their objective ("Article 9" products).

Asset management companies should identify the products falling under Articles 8 and 9 of the SFDR and apply the corresponding transparency requirements provided for in the regulation. At this stage, the AMF does not plan to further specify the definitions in the

SFDR. Clarifications could, however, be made at a later date by the European Commission or the European supervisory authorities.

The first provisions of the SFDR Regulation will come into force on March 10, 2021. The European Commission recently specified in a letter to the European supervisory authorities that the delegated acts clarifying certain aspects of the Regulation would be published at a later date - without prejudice to the application of the provisions of the Regulation. Asset management companies must therefore comply with the provisions of the regulation applicable as from March 10, 2021 in accordance with the general principles defined by the regulation.

### **Articulation with the AMF position-recommendation DOC-2020-03**

March 11, 2021 - one year after its initial publication - will also mark the end of the transitional phase provided for in AMF position-recommendation DOC-2020-03 on the information to be provided by collective investment schemes integrating non-financial approaches. This position-recommendation will apply to all collective investment schemes that take non-financial criteria into account in their management and are marketed to non-professional clients in France.

While the SFDR regulation defines transparency obligations, the AMF doctrine published in March 2020 and updated in July 2020 introduces minimum standards for the marketing of non-financial communication by investment funds. The two systems therefore have complementary objectives, with nevertheless some overlap.

In this context, the AMF reiterates its willingness to converge in due time its approach with the new European framework. It will thus be able to adapt national provisions according to the clarifications that will be made at the European level, notably with the adoption by the European Commission of the delegated acts of the Markets in Financial Instruments Directive (MiFID), which concern the integration of clients' ESG preferences and in product governance.

Pending the finalization of these texts, the AMF would like to make the following clarifications:

- the transparency requirements required in pre-contractual documents or websites in application of Articles 6, 8, 9 and 10 of the SFDR apply independently of the categories defined by Position-Recommendation 2020-03. In particular, the publication of the information required by these articles of the regulation constitutes "proportionate

communication" as provided for by the AMF position-recommendation for funds authorized to communicate in a reduced or limited manner to the prospectus ;

- in order to be able to present non-financial criteria as a key aspect of product communication in their name, their KIID or their marketing material or a limited communication non-financial criteria (limited to a few lines in the KIID or the marketing material) promoting environmental and/or social characteristics" as defined by Article 8 of the SFDR Regulation as well as those "with the objective of sustainable investment" as defined by Article 9 must meet the minimum standards defined by the position-recommendation DOC-2020-03.
- Given the definitions and provisions contained in the SFDR, the AMF anticipates that products presenting themselves as "having as their objective sustainable investment", as described in Article 9 of the said regulation, will implement "significantly binding" approaches within the meaning of AMF position-recommendation DOC-2020-03. However, it is specified that the AMF considers that an approach based on a significant commitment of the managed assets is not sufficient to comply with the provisions of article 9 of the SFDR regulation.

## Procedures applicable to changes in products and pre-contractual documents

In order to facilitate changes in the fund range of asset managers, since March 11, 2020, the AMF has softened its procedures for product changes. Thus, the sole inclusion of non-financial criteria in the management of the investment scheme no longer constitutes a change subject to the prior approval of the AMF, provided that it does not substantially alter the risk and return profile. It is now sufficient to send specific information to investors and fill and send to the AMF the form in the appendix of the instruction relating to the approval procedures for each product concerned. Similarly, managers may modify their pre-contractual documents in accordance with the general principles defined by the SFDR without AMF approval.

The AMF is working actively with market participants, its counterparts and European institutions to facilitate the implementation of the new European framework.

### To find out more

- 📄 Disclosure Regulation: The AMF provides a number of key insights on the ongoing consultation of the European Supervisory Authorities

REGULATION (EU) 2019/2088 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 27 November 2019 on sustainability-related disclosures in the

✎ financial services sector

Letter of 22 October 2020 from DG FISMA (European Commission) to EBA, ESMA and EIOPA

✎ AMF Position - Recommendation DOC-2020-03: Information to be provided by collective investment schemes incorporating non-financial approaches

✎ Letter of the Chair of the Joint Committee of the ESAs on priority issues relating to SFDR application

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SUSTAINABLE FINANCE

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Head of publications: The Executive Director of AMF Communication Directorate. Contact: Communication Directorate – Autorité des marchés financiers 17 place de la Bourse – 75082 Paris cedex 02