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Update of the AMF's policy on funds that use Total Return Swaps and communicate about their consideration of non-financial criteria

In December 2020, the AMF published an initial policy restricting communication by these collective investment schemes and inviting market participants to define a robust framework to enable the development of these products. The AMF is updating its policy, which opens up possibilities for communicating on these products, following the publication of a charter by the AMAFI and the FBF.

A marginal but growing practice

The report published in December 2020 set out the issues related to communication about the consideration of non-financial criteria of funds that are exposed via derivative products and, in particular, via total return swaps (TRS). A TRS is a derivative contract by which a counterparty bank transfers the total economic performance of assets to a fund. TRSs are used for example by some Exchange Traded Funds (ETFs) that use "synthetic" methods of replication of the performance of an index or basket of assets via derivatives, without investing directly in the securities in question. The use of these instruments has many advantages, such as providing exposure to markets to which access is costly or whose performance is difficult to replicate (for example, emerging markets).

The same report showed that communication on the ESG characteristics of these funds could be difficult to understand in the absence of any transparency or guarantees given by the TRS's counterparty banks as to their use of the sums invested by these funds. In this respect, the AMF restricted communication by these funds on their ESG characteristics ("reduced" communication). It invited the financial community to develop a robust framework that could provide reasonable assurance of consistency between the ESG promise made to investors and the securities ultimately acquired by these banks.

Change to the AMF's policy to be able to communicate centrally on ESG criteria

The AMAFI and the FBF have drawn up a charter setting out a number of commitments to be met by funds that wish to communicate more widely on the consideration of ESG criteria. The main measure consists in reducing the differences between the assets that are targeted by the fund's ESG promise and those that are ultimately acquired by the counterparty, i.e. the counterparty's "hedge".

The AMF is adapting its policy as a result of this development. Communicating centrally on ESG criteria is possible if the TRS respects the AMAFI-FBF charter and provided that a minimum quantity of assets is held by the funds as well as transparent communication to their investors on the absence of voting practices on shares to which the fund is exposed via swaps. These changes are incorporated into AMF Position-Recommendation 2020-03.

While the framework proposed by the AMAFI and the FBF addresses the main concerns raised in the report, the AMF calls on investment management companies to be extremely vigilant about communication on the consideration of non-financial criteria in this type of funds. In particular, these disclosures should be free of ambiguity about the effective impact of these investments on the environment or society, for example.


Read more

✎ Non-financial approaches in collective investment schemes

Instruction DOC-2020-03: Information to be provided by collective investment

✎ schemes incorporating non-financial approaches (in French only)

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