



INFORMATION TO BE PROVIDED BY COLLECTIVE INVESTMENT SCHEMES INCORPORATING NON-FINANCIAL APPROACHES

Reference texts: Articles L. 533-12, L. 533-22-1 and L. 533-22-2-1 of the Monetary and Financial Code and Articles 411-126 and 421-25 of the AMF General Regulation

1. CONTEXT

Since the start of 2019, the roll-out of non-financial investment management schemes and ranges of funds incorporating environmental, social and governance criteria has gathered momentum, with announcements along these lines made by several portfolio asset management companies (“AMCs”). This trend is underpinned by European regulatory initiatives and by increasing demand from investors. In this context, it is necessary for the AMF to clarify its expectations of AMCs to ensure the quality of information provided for investors and its consistency with the non-financial investment management approaches adopted by fund managers.

The AMF’s approach is guided by the following principles:

- The AMF wants to **encourage and support** the momentum in favour of sustainable development, while taking care to **ensure the conditions for trust** and the emergence of good practices;
- The rapid changes in the industry are taking place in a context that is still not clearly defined and in which numerous strategies, with more or less significant ambitions, coexist. This variety of approaches may correspond to diverse expectations and needs on the part of investors. To ensure a good understanding of the diversity of the product offering and prevent **risks of greenwashing in particular for retail clients**, a key issue is the information provided to the investor to evaluate the proposed approach, and whether it is accurate, clear and not misleading;
- In response to these risks, the information sent to investors regarding the consideration of non-financial characteristics should be **proportionate** to the actual consideration of these factors. Accordingly, only approaches that are significantly binding will be able to present non-financial criteria as a **key aspect of product communication**, e.g. in their name. Approaches based on a non-significant commitment may also adopt a “limited” presentation of the consideration of non-financial criteria in their management;

In this context, the AMF is enhancing its policy by defining a number of criteria for assessing the effectiveness of the approaches used. **The principle is that the consideration of non-financial criteria must be measurable.** In the specific case of rating upgrade approaches or approaches based on selectivity in relation to a benchmark investment universe, the criteria to be allowed to make non-financial characteristics a key aspect of communication are based notably on the thresholds currently defined by the French SRI public label. These criteria correspond to the greatest number of cases of funds wanting to make consideration of non-financial characteristics a key aspect of their product communication.

At the same time, and to allow make it easier for fund managers to modify their product ranges to enable the consideration of non-financial characteristics, the AMF is streamlining the product modification procedure by no longer requiring that such modifications constitute as such a change subject to its authorisation.¹

This policy applies to the following asset managers and distributors of collective investment products authorised for marketing in France to a clientele of **retail investors**:

- asset management companies of French UCITS,² retail investment funds (FIVG),³ private equity funds including retail private equity investment funds, retail venture capital funds and retail local investment funds, real estate collective investment undertakings (OPCI) and real estate investment companies (SCPI),⁴ employee savings scheme funds, funds of alternative funds, and "Other AIFs" when they have at least one non-professional unitholder or shareholder.⁵
- the entities marketing such collective investment products in France, but also UCITS incorporated under foreign law.⁶

However, this policy is not applicable to French-domiciled collective investment products which are only marketed abroad and whose subscription and acquisition of units or shares are reserved for non-French-resident investors.

Funds taking into account non-financial characteristics in their investment decision that do not opt for a significantly binding methodology will be able to mention it in their communication without making it a key aspect of communication. This policy corresponds to a context in which the approaches allowing for these criteria are diverse and changing over time. Accordingly, and while far from exhausting all issues regarding the quality of non-financial information disclosed on these CIUs, this position-recommendation defines a set of minimum standards allowing non-financial criteria to be made a key aspect of product communication or opt for a limited communication on non-financial criteria. **Compliance with the standards mentioned in this guidance does not imply that the methodology used by the asset manager has a real impact.** These standards can be summarised by the following diagram.

¹ For UCITS, retail investment funds (RIF), funds of alternative funds (FAF) real estate undertakings for collective investment (OPCI), professional real estate collective investment undertakings (OPPCI), private equity funds and employee investment funds (FCPE)

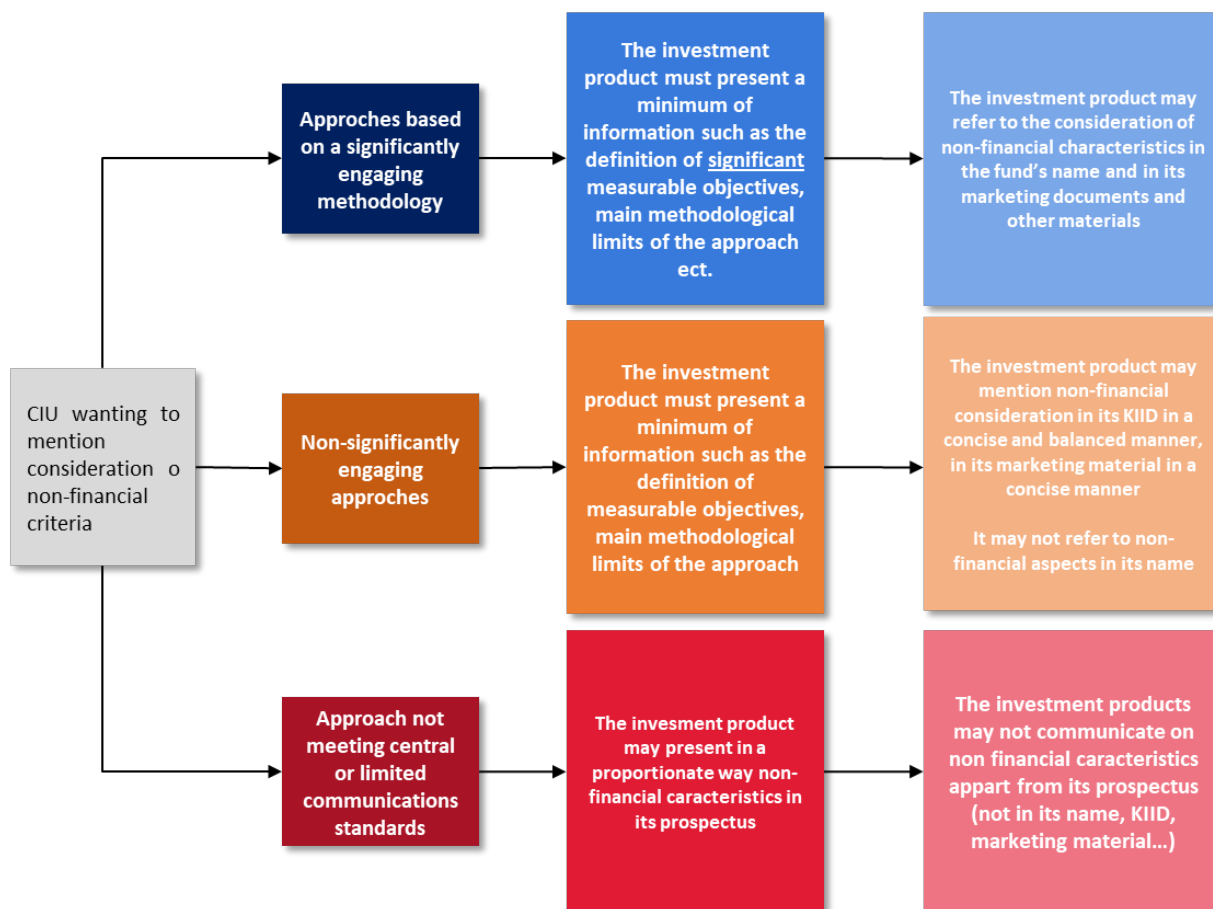
² With the exception of the structured UCITS mentioned in Article R.214-28 of the Financial and Monetary Code.

³ With the exception of structured retail investment funds (FIV mentioned in article R.214-32-39 of the Financial and Monetary Code.

⁴ For the application of the provisions of this policy to SCPIs, the "KIID" refers to the "PRIIPs KID" (Regulation (EU) 2019/2088 of the Parliament and of the Council of 27 November 2019 on the publication of information regarding sustainability in the financial services sector) and the prospectus refers to the offering document (referred to in Instruction 2019-04: "Real estate investment companies, forestry investment companies and forestry investment groups").

⁵ As defined in III of Article [L.214-24](#) of the Monetary and Financial Code. For the application of this policy to these AIFs, the information mentioned in the KIID and the prospectus refers to the information documents made available to investors pursuant to Article 3 of Instruction DOC-2014-02.

⁶ See the provisions applicable to UCITS distributors in accordance with the provisions of Article 411-126 of the AMF General Regulation.



This policy could, in particular, be reassessed depending on the outcome of the work on the delegated acts of the "Disclosure Regulation".⁷ Pursuant to Article 11 of this regulation, UCITS and AIFs managers will be required to disclose periodic information to assess the extent to which environmental or social characteristics are met⁸ or on the sustainability-related impact of the products.⁹ However, at this stage, this regulation does not define minimum standards for products mentioning non-financial criteria.

Lastly, the policy does not cover the general information disclosed by AMCs concerning their responsible management approach (e.g. involvement in voluntary standards, etc.).

For the purposes of this policy:

- "Regulatory documents" are understood as meaning:
 - o The prospectus and, where applicable, the Key Investor Information Document ("KIID");
 - o The instruments of incorporation of the CIU (rules or articles of association);
 - o Any other document disclosed to investors which must be submitted beforehand to the AMF for authorisation or the issue of an approval of the CIU's offering document.
- "Marketing materials" shall be understood as meaning any information of a promotional nature sent directly to potential/existing subscribers, or likely to be passed on by distributors to their clients, either in writing or verbally¹⁰.

⁷ Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on the publication of information regarding sustainability in the financial services sector (Sustainable Finance Disclosure Regulation - SFDR).

⁸ For financial products mentioned in Article 8 of this regulation

⁹ For financial products mentioned in Article 9 of this regulation

¹⁰ AMF Position-Recommendation DOC-2011-24

Timing and conditions for the entry into force of the provisions of this policy

This policy applies with the following timeline:

- 1- Creation of collective investment products, changes to existing ones and notification to the AMF of the marketing in France of a foreign-based UCITS:¹¹ **immediate** application
- 2- Existing products as at 11 March 2020: application as at 10 March 2021. During this transitional phase, changes to remove non-financial information from the products (e.g. change of name) only requires that investors be informed by any means.
- 3- Products created or modified or UCITS established under foreign law that have notified the AMF of cross-border marketing between 12 March and 22 July 2020: **application of the required modifications latest by 30 September 2020.**

2. GENERAL PRINCIPLES OF THE NON-FINANCIAL INFORMATION DISCLOSURE

Faced with the diversity of the non-financial approaches observed and sales pitches used, the AMF has defined several general principles to define the clear, accurate and not misleading nature of the information disclosed¹² regarding consideration of non-financial criteria.

Position 1:

The information provided regarding the consideration of non-financial criteria must be **proportionate** to the objective and effective impact of the consideration of non-financial criteria in CIU management.

The need to have information proportionate to the effective consideration of non-financial criteria in the management of collective investment products implies a distinction between different levels of communication about the consideration of non-financial information, together with minimum standards. At this stage therefore, the AMF distinguishes **three levels of communication** on the consideration of non-financial information and defines two related minimum standards.

Levels of communication on the consideration of non-financial criteria

The following concepts apply without distinction to the various non-financial characteristics that may be included in a communication: SRI, ESG integration, responsible, sustainable, green, ethical, social, impact, low-carbon (non-exhaustive list of terms given as examples).

➤ Consideration of non-financial criteria as a key aspect of communication

Non-financial characteristics are considered a key aspect of communication when they are presented:

- in the **name** of the collective investment product; **or**
- in the **KIID**; **or**
- in the marketing materials, apart from a **concise** mention (see "*limited communication*" below).

¹¹ As mentioned in Article L. 214-2-2 of the Monetary and Financial Code

¹² Article [L. 533-22-2](#) of the Monetary and Financial Code for French asset management companies and Article [411-126](#) of the AMF General Regulation for UCITS distributors (applicable to foreign-based UCITS by reference to Article 411-132) and Article [421-25](#) of the AMF General Regulation for AIF distributors (applicable to "Other AIFs" by reference to Article [421-A](#)). Note the AMF General Regulation uses the same terms of "*accurate, clear and not misleading*" communications.

Conversely, mentioning consideration of non-financial characteristics only in the prospectus in a proportionate manner is not considered as presenting them as a *key aspect* of communication.

➤ **Limited communication on non-financial criteria**

Communication on the consideration of non-financial criteria shall be considered as limited when it is not central and is made:

- in the KIID in a **concise and balanced** manner about the limitations of the consideration of non-financial criteria in management and in the section "Other information" within the meaning of the [CESR/10-1321](#) guidelines. Examples of standard phrases are provided in Annex 1;
- in commercial documentation in a **concise** manner.

Communications on non-financial criteria¹³ in commercial documents shall be concise when they are:

- **secondary** to the presentation of product characteristics both in terms of breadth and positioning in the document;
- **neutral** (no special emphasis, visuals, etc.) ;
- **limited to less than 10% of the volume occupied by the presentation of the product's investment strategy**. This volume can be calculated in number of characters used if the font and format are comparable to those used for the presentation of the product's investment strategy".

On the contrary, mentioning the consideration of non-financial features only in the prospectus in a proportionate manner is not considered as a *limited* communication on the consideration of non-financial criteria.

Thus, all references to non-financial characteristics:

- in the **name** is considered as a **central** communication ;
- in the **KIID** is considered alternatively as a **central or limited** communication depending on the conciseness, balance and positioning of the communication;
- in the **marketing materials** is considered alternatively as a **central or limited** communication according to the conciseness of the communication;

The following table summarises the different types of communications and the associated minimum standards that will be further developed in this position-recommendation.

Communication	Communication material on the consideration of non-financial criteria	Minimum standards
Key	Name KIID Marketing materials Prospectus	Significantly binding
Limited	Name: no reference to non-financial aspects KIID: concise and balanced reference in the " Other information " section Marketing materials: concise reference Prospectus: proportionate communication	Non-significantly binding
Limited to the prospectus	Name: no reference to non-financial aspects KIID: no reference to non-financial aspects Marketing materials: no reference to non-financial aspects Prospectus: proportionate communication	Approach not meeting central or limited communication standards

¹³ Including the description of the general framework of the consideration of non-financial criteria by the investment management company

3. MINIMUM STANDARDS FOR PRESENTING NON-FINANCIAL CHARACTERISTICS AS A KEY ASPECT OF PRODUCT COMMUNICATION

The AMF considers that the scope of products that can present consideration of non-financial characteristics as a key aspect of their communication should be restricted to collective investment products which adopt a **significantly binding approach**, as defined below.

Position 2:

Only collective investment products which comply with the following characteristics can¹⁴ make non-financial characteristics a key aspect of communication:

- a) the approach adopted is **binding** in that it provides measurable objectives in the regulatory documents for the consideration of non-financial criteria;
- b) the commitment to take non-financial criteria into consideration must be **significant**. This point is determined as follows:
 - i) "Rating upgrade" approaches compared with the investable universe:¹⁵ the rating of the collective investment product must be higher than the rating of the investment universe after eliminating at least 20% of the least well-rated securities;
 - ii) "Selectivity" approaches compared with the investable universe: reduction of the investment:¹⁶ reduction of the investment universe by at least 20%.
 - iii) Approaches for "non-financial indicator upgrade" in relation to the investable universe¹⁷ (alternative criteria):
 - a. The average of a non-financial indicator calculated at portfolio level must be higher than the average of the investable universe calculated after eliminating at least 20% of the worst values for this indicator;
 - b. The average of a non-financial indicator calculated at portfolio level is at least 20% better than that calculated for the investable universe, provided that the dispersion of the indicator does not make this improvement insignificant.
 - iv) Other approaches (including the combination of the above-mentioned approaches): the management company must be able to demonstrate to the AMF in what way its approach is significant.

When the approach refers to the investment universe, it must be consistent with the investment universe that would have been selected for a similar fund not presenting non-financial characteristics, to avoid an "artificial" reduction or improvement in the investment universe.¹⁸ In this connection, the composition of this universe should be determined exclusively on the basis of the fund's strategy and the assets that it is able to select.

¹⁴ These collective investment products are nevertheless not obliged to make the consideration of non-financial criteria in their management a key aspect of their communication.

¹⁵ Approach allowing for non-financial criteria which consists of improving the average non-financial rating of the CIU relative to that of the investable universe.

¹⁶ Approach allowing for non-financial criteria which consists of selecting the best issuers of the investable universe on the basis of their non-financial rating and/or excluding issuers on the basis of non-financial characteristics.

¹⁷ Approach allowing for non-financial criteria which consists of improving the average a financial indicator of the CIU relative to that of the investable universe.

¹⁸ For example, combining a "Europe" fund with a "World" investment universe so as to post an artificial improvement made possible by the selection of non-European issuers which are less well rated from an ESG viewpoint.

c) The non-financial analysis, non-financial indicator or non-financial rating coverage rate must be higher than 90%. This rate may be estimated based either on the number of issuers or the net asset value of the collective investment product. In this regard, AMCs must make sure that the proportion of the fund's net assets which is not analysed or without non-financial indicator remains insignificant.

The quantified standards mentioned in points b)i), b)ii), b)iii) and c) are calculated, where applicable, to the exclusion of bonds and other debt securities issued by public or quasi-public issuers, liquid assets held accessorially, and solidarity assets.¹⁹

d) In the **specific case** of approaches making the SRI aspect a key theme of communication, the non-financial analysis applied to collective investment assets takes into consideration criteria relating to **each Environmental, Social and Governance factor**. In addition, for the indicator-based approaches mentioned in point (b)(iii) wishing to make SRI a key element of their communication, the collective investment scheme must, on the whole, analyse non-financial indicators relating to each of the Environmental, Social and Governance factors.

This position calls for several clarifications.

- "Rating upgrade" and "selectivity" approaches compared with the investable universe

The SRI label is positioned as a market standard regarding non-financial approaches, leading the AMF to adopt a meaning of the significantly engaging approach in line with these thresholds taken from the label²⁰ [benchmark](#) in order to ensure the clarity and credibility of the approaches adopted.

- Approaches for "non-financial indicator upgrade" in relation to the investable universe

Unlike approaches based on non-financial ratings that weight several indicators from analyses of the social, environmental or governance characteristics of companies, these approaches aim to significantly improve an indicator precisely identified in the fund's legal documentation in relation to the investable universe.

Some of the non-financial indicators include, but are not limited, to the following:

- Environmental factor: greenhouse gas emissions, volumes of waste produced or recycled, volumes of water consumed or recycled, total or renewable energy consumption, etc.
- Social factor: gender equity in the management of the company (proportion of women on the executive committee, etc.), employment rate of people with disabilities, frequency of accidents within the company, overall tax rate, etc.
- Governance factor: number or percentage of independent directors, remuneration policies, etc.

- "Other approaches" mentioned in point b)

Point b)iv) of the aforementioned position applies to approaches which might not be "selectivity", "rating upgrade" or "non-financial indicator upgrade" approaches. For example, and without this being exhaustive:

- funds of funds wanting to make SRI a key aspect of their communication. The significance of these funds can, for example, be assessed based on the requirement of a 90% investment in funds themselves having the SRI label or themselves complying with the constraints applicable to SRI funds in this policy;
- Collective investment schemes wanting to mention in their KIID their contribution to financing of the energy and ecological transition which are mostly invested in Green Bonds selected on the basis of compliance with a defined standard such as the Green Bonds Principles of the International Capital Market

¹⁹ Securities issued by solidarity companies referred to in [Article L. 3332-17-1 of the Labour Code](#).

²⁰ See Criteria 3.1 b) and c) [of the SRI label reference document](#) on measurement of the implementation of the SRI strategy which provide, respectively, for a minimum of 90% of coverage for the fund and a 20% reduction in the investment universe.

Association (ICMA). The significance may, for example, be assessed based on the requirement of 75% of the assets required by the Greenfin label [guidelines](#);

- Funds may make energy transition financing a key aspect of their communication when they plan to invest a significant proportion of their net assets in equities from companies that derive most of their revenues from activities considered to promote the energy transition and ensure that the portfolio does not include issuers with activities that could materially undermine this objective.
- This is the case, for example, of best-in-progress approaches in real estate funds that aim to significantly reduce the energy consumption of their portfolio over time.

This illustrative, non-exhaustive section may be subject to regular updates and additions in order to make the AMF's expectations more predictable and clearer for market participants.

- Simultaneous analysis of the E, S and G pillars for SRI approaches

Although there is no regulatory definition of an SRI fund, historically the French marketplace has gradually structured its approaches to the consideration of Environmental, Social and Governance (ESG) criteria around this concept of "socially responsible investment".

This distinction made between funds that make the "SRI" dimension a key aspect of their non-financial management and communication, and those that practice ESG integration, i.e. taking E, S and G factors into account in a manner that is not necessarily exhaustive or systematic, is an initial development aimed at making the approaches more transparent. This could be fine-tuned in the future.

- Illustration of approaches that are not considered sufficient to be significantly binding:

In a number of cases, the use of a filter to exclude certain sectors cannot be considered sufficient to make non-financial aspects a key part of product communication, because it does not translate to significantly binding management. The following cases illustrate this situation:

- funds that exclude certain controversial activities such as tobacco, arms and pornography are *a priori* excluded from the scope of significantly binding approaches if no other non-financial criterion corresponding to the aforementioned characteristics (Position No. 2) is used in the management of the collective investment product;
- Complying with the obligation introduced by France's ratification of the Ottawa (1999) and Oslo (2008) conventions by emphasising the exclusion of issuers involved in controversial arms such as cluster munitions or anti-personnel mines²¹ is not considered sufficient to make non-financial aspects a key part of product communication. Thus, any possible communication on these aspects should be limited to a simple statement in the prospectus, together with a statement that this exclusion is binding on all French AMCs;
- The exclusion of fiscally non-cooperative countries. [The ministerial order of 12 February 2010](#) issued pursuant to Article 238-0 A of the General Tax Code, in its latest version dated January 2020, mentions a list of 13 states and territories including Oman, Panama and several islands in the Pacific and the Caribbean.²² These locations represent an apparently immaterial proportion of the usual investment universe of collective investment schemes;
- The exclusion of companies that have been subject to international sanctions or that do not comply with international regulations regarding work organisation, notably on respect of freedom of association and collective bargaining rights, the elimination of forced labour and child labour.

²¹Law 2010-819 of 20 July 2010 on the elimination of cluster munitions: In France, it "is [...] prohibited [...] to assist, encourage or incite anyone to engage in any [of these] prohibited activities". Moreover, "any direct or indirect financial assistance, with full knowledge of the facts, for the production or trade of cluster munitions would be considered assistance, encouragement or inducement subject to criminal law".

²² Full list: Anguilla, Bahamas, British Virgin Islands, Panama, Seychelles, Vanuatu, Fiji, Guam, American Virgin Islands, Oman, American Samoa, Samoa and Trinidad and Tobago.

Similarly, merely mentioning an average ESG rating that is higher than that of its investment universe without any further indication of the extent to which this rating has improved is not sufficient to make the inclusion of non-financial characteristics a key aspect of communication.

4. MINIMUM STANDARDS FOR A LIMITED COMMUNICATION ON THE CONSIDERATION OF NON-FINANCIAL CHARACTERISTICS

Position 2 bis:

Only collective investments that comply with the following characteristics may²³ communicate in a limited manner on the consideration of non-financial criteria in their management:

- a) The approach adopted is based on a commitment in that it provides measurable objectives for the consideration of non-financial criteria in the regulatory documents. In this respect, collective investment undertakings describe the information set out in Position 4 in their prospectus;²⁴
- b) if the approach adopted is based on a rating or indicator, the average rating or indicator of the collective investment must be higher than the average rating or indicator of the investment universe;
- c) the non-financial analysis or rating must be higher than:
 - a. 90% for equities issued by large-caps headquartered in "developed" countries, debt securities and money market instruments with an investment grade credit rating, sovereign debt issued by developed countries;
 - b. 75% for equities issued by large-caps headquartered in "emerging" countries,²⁵ equities issued by small-caps and mid-caps, debt securities and money market instruments with a high yield credit rating and sovereign debt issued by "emerging" countries.

These rates may be expressed either in terms of the number of issuers or in terms of the capitalisation of the net assets of the collective investment. In the event of investment in several categories by the same fund, the above-mentioned rates shall apply transparently to each category.

For the purposes of this position, it is considered that small-caps are companies with a market capitalisation value of below €5 billion, mid-caps are those between €5 billion and €10 billion and large-caps are companies with a market capitalisation of €10 billion or more.

This approach could be developed in the near future for other asset classes for which reference to an investable universe may be more difficult to implement (private equity in particular).

5. INVESTOR INFORMATION ON CONSIDERATION OF NON-FINANCIAL CRITERIA

5.1. Publication of information other than regulatory and marketing documentation

²³ However, these collective investments are not obliged to provide limited communication way on the consideration of non-financial criteria in their management

²⁴ It must be noted that the communication of this information in the KIID would not comply with the requirements of concise and balanced communication.

²⁵ For example based on the definition used by market indices (e.g. MSCI Emerging markets)

Given the diversity of the non-financial strategies and themes observed during its supervisory assignments, the AMF stresses the need to precisely describe the characteristics and limits of the approaches implemented. Since the regulatory and marketing documentation cannot always describe in detail certain specific features of the consideration of non-financial characteristics in the context of management of a collective investment undertaking, in line with the aspects discussed above, the AMF issues two recommendations²⁶ regarding these collective investment undertakings:

Recommendation 1 applicable to collective investment undertakings that make the consideration of non-financial characteristics a key aspect of communication

The AMF recommends that collective investment undertakings that wish to make the consideration of non-financial criteria a key aspect of their communication:

- publish a document explaining the AMC's approach modelled on the [Transparency Code](#); and
- adhere to a charter, code or label regarding the criteria relating to fulfilment of social, environmental and governance quality objectives. In the particular case of funds that use the SRI label and are marketed as such, it is recommended that they obtain the SRI label.

5.2. Regulatory documents for collective investment undertakings involving a non-financial aspect

This section deals with the drafting of regulatory documents for collective investment undertakings that make the consideration of non-financial characteristics a key aspect of communication.

The consideration of non-financial criteria in the investment strategy of a collective investment undertaking may be very different from one asset management company to another. To enable investors to compare strategies, the regulatory documents for these collective investment undertakings should indicate a minimum of information. This key information includes, in particular, information based on the recommendations indicated in the first AMF report on socially responsible investment in collective investment undertakings:²⁷

Recommendation 2 applicable to collective investments that make the consideration of non-financial characteristics in management a key aspect of communication

The AMF recommends that the regulatory documents for collective investments that make the consideration of non-financial criteria a key aspect of their communication should present:

- (i) an investment objective describing the non-financial aspect of their management;
- (ii) the type(s) of approach practised (best-in-class, best-in-universe, etc.);
- (iii) information on the selection and management methods used.

It is recommended that all funds that implement strategies with a non-financial focus via significantly binding approaches provide this information which will enable investors to understand how the product works. In order to keep the information clear and concise, it is possible to make references to other documents (Art. 173 reporting obligations, Transparency Code, etc.) that present the details of the non-financial analysis. The sole purpose of these references will be to specify the methodological approach adopted through details that are difficult to present in the regulatory documentation of the collective investment (exhaustive list of non-financial criteria, list of data providers, details of the carbon footprint calculation, etc.).

²⁶ Consistent with the recommendations already made by the AMF in its Position-Recommendation DOC-2011-24 for SRI funds.

²⁷ These recommendations have been incorporated into Position-Recommendation DOC-2011-05 ("A Guide to regulatory documents governing collective investment undertakings") and Position-Recommendation DOC-2011-24 ("A Guide to drafting collective investment marketing materials and distributing collective investments").

This information is to be presented in the KIIDs and/or prospectuses of collective investment schemes (or "PRIIPS KIDs" or offering document where applicable) and is summarised below before being described in detail further on. Information to be presented in the prospectus may nevertheless be included in the KIID in order to contribute to the proper information of unitholders:

Description of the consideration of non-financial criteria	KIID	Prospectus
Non-financial investment objective	X	X
Type of approach(es) implemented (e.g. best-in-class, best-in-universe, best-effort, thematic, etc.)	X	X
Description of the process of stock picking and sequencing in relation to the financial strategy	X (summary description)	X (detailed description)
Examples of non-financial criteria	X (some examples)	X
Warning on the limits of the approach adopted (see below)	X	X
Presentation of the investment universe on which the non-financial analysis is based		X
Minimum measurable objective (e.g. at least 20% for selectivity approaches)		X
Minimum rate of non-financial analysis (on at least 90%)		X

5.2.1. Investment objective

Pursuant to Position-Recommendation DOC-AMF 2011-05 "*The investment objective shall be understandable without reading the rest of the KIID and it shall help investors identify the main purpose and characteristics of the investment policy implemented by the UCITS [or AIF].*"

For example, a thematic collective investment scheme that takes the three pillars E, S and G into consideration may specify in its investment objective that it will use a selection of securities "*complying with Environmental, Social and Governance (ESG) responsibility criteria and attractive due to their efforts to reduce carbon emissions and foster the energy transition*", or else for a low-carbon thematic collective investment it may indicate in its management objective that the portfolio will be "*managed according to a socially responsible approach in which the target carbon intensity objective is to be constantly at a level xx% lower than that of the benchmark indicator*".

5.2.2. Investment policy

In line with the above-mentioned provisions concerning the materiality for management of the consideration of one or more non-financial characteristics, the AMF requires a proportionate and balanced presentation of these characteristics in the regulatory documentation of the collective investment:

Recommendation 3 applicable to collective investments that make the consideration of non-financial characteristics in management a key aspect of communication
In the KIID, the AMF recommends that a description of the non-financial strategy be given by presenting:

- the type of approach or approaches used (e.g. best-in-class,²⁸ best-in-universe,²⁹ best-effort,³⁰ thematic, significantly binding ESG integration, etc.). It is also recommended to define the significance of these various strategies to ensure that the document can be easily understood, and indicate whether or not the approach can lead to the selection of certain sectors;
- a summary of the process of consideration of non-financial characteristics (e.g. filters, ratings, etc.) and its sequencing relative to the financial strategy;
- a few examples of some of the most significant non-financial criteria analysed (e.g. two or three examples).

In general, the AMF recommends that a collective investment should not use terms with an environmental, social or governance meaning that is inappropriate for the management of the collective investment. For example, when an approach takes several criteria into consideration without placing one significantly above the others, the AMF recommends that the specific objectives for a single criterion should not be communicated (e.g. a best-in-universe SRI approach that gives equal consideration to the E, S and G criteria and communicates only or primarily a contribution to the limitation of global warming).

Position 3 applicable to collective investments that make the consideration of non-financial characteristics in their management a key aspect of communication

When the KIID mentions consideration of non-financial criteria, it should describe concisely the main methodological limits to the non-financial strategy implemented when they are significant (within the size limits stipulated by the KIID and referring to the prospectus for more details when these aspects require detailed explanations). When the KIID does not provide such information, these explanations should appear in the prospectus.

This information is designed to enable investors to understand in summary form the non-financial analysis performed by the asset management company and its limits.

Note that the limits to the non-financial strategy include, in particular:

- For funds of funds: Potential inconsistency between the SRI/ESG strategies of the underlying funds (criteria, approaches, constraints, etc.), especially when the AMC selects funds that it does not manage and which have different approaches for taking non-financial criteria into consideration (e.g. different criteria, analyses, weightings or measurable objectives);
- For funds using different approaches for taking non-financial criteria into consideration via several investment pockets: possible inconsistency in the selection of issuers in the various pockets and/or maximum percentage associated with one or more pockets having different strategies/objectives (e.g. a pocket of "directly held" equities in "stock picking" with a qualitative and quantitative filter combined with an investment in green bonds, solidarity companies and SRI-labelled funds).

When a collective investment scheme is considering selecting green bonds, social bonds or sustainability bonds, it is recommended that it explains to what extent the selected bonds will comply with current market standards, in particular the Green Bond Principles (GBP) and the Social Bond Principles of the International Capital Market Association (ICMA), or the European standard (EU Green Bond Standard) currently under discussion.

²⁸ For example, [Novethic defines this approach](#) as: "a type of **ESG selection** consisting in giving priority to the best rated companies from a **non-financial** viewpoint within their sector of activity, without favouring or excluding a sector in relation to the stock market index serving as a starting point".

²⁹ For example, [Novethic defines this approach](#) as: "a type of **ESG selection** consisting in giving priority to the best rated issuers from a **non-financial** viewpoint irrespective of their **sector of activity**, by accepting sector biases, because the sectors that are considered more virtuous on the whole will be more represented "

³⁰ For example, [Novethic defines this approach](#) as "a type of **ESG selection** consisting of giving priority to the issuers demonstrating an improvement in or good prospects for their **ESG practices and performance over time** "

Recommendation 4: Specific nature of investments in green bonds, social bonds or sustainability bonds

In the case of green bond, social bond or sustainability bond funds, the AMF recommends the inclusion in the KIID of an explanation of the criteria to be complied with for the selection of green bonds or social bonds, in particular by mentioning the asset management company's position with regard to the application by the issuers of recognised standards in this area such as the Green Bond Principles or Social Bond Principles, or the future EU Green Bond Standard. It is also recommended that more detailed explanations concerning these standards be given in the prospectus.

To ensure a good understanding of the information provided in the KIID, a description of the consideration of non-financial criteria is required in the prospectus.

Position 4 applicable to collective investments that make the consideration of non-financial characteristics in their management a key aspect of communication (and applicable by reference to approaches communicating in a limited manner by reference to Position 2 bis)

To assess the significantly binding nature of the approach in the regulatory documentation, at least the following information should be presented in the prospectus:

- The minimum measurable objectives adopted in accordance with Position 2;
- The minimum rate of non-financial analysis of the portfolio.

Moreover, if it is not included in the KIID, and when the AMC uses such a metric to assess the significance of the approach used, the **prospectus** must in any case include a presentation of the investment universe on the basis of which the non-financial analysis is performed in order to report on the effective reduction of the initial universe or the significant improvement in the non-financial rating of the portfolio in relation to this universe. This paragraph does not apply to approaches that do **not** use a comparison with their investment universe as part of their consideration of non-financial criteria.

Recommendation 5 applicable to collective investments making the consideration of non-financial characteristics in their management a key aspect of communication

The AMF recommends presenting details of the fund's non-financial selection process in the prospectus by describing:

- the type of approach(es) used;
- a summary of the process of consideration of non-financial characteristics (e.g. filters, ratings, etc.) and its sequencing in relation to the financial strategy. This summary is not intended to be exhaustive, but it should make it possible to understand the key stages in the investment management process;
- a list of the main non-financial criteria adopted which does not adversely affect the clarity of the non-financial information presented due to the number of criteria. Where applicable, reference can be made to other documents (Art. 173 reports, Transparency Code, regular reports, etc.).

This recommendation is especially relevant when the approach adopted implies calling on third-party service providers or when the sequencing is hard to comprehend from the information presented in the KIID. For example, a strategy employing several approaches in succession could present before the details of each approach an indication such as: *"After a first filter for the exclusion of activities considered by the asset management company as most harmful for the environment, the investment management process considers the sustainable development theme via X categories of indicators. It then reduces the universe by taking non-financial criteria into consideration before performing a financial analysis leading to the construction and management of the portfolio"*

Information relating to the asset management company may be mentioned provided that it contributes to a good understanding of the investment policy implemented via the fund. The AMF repeats one of the previous recommendations made in its previous report concerning marketing materials with a view to also applying it to the regulatory documents.

Recommendation 6: Specific case of funds mentioning the existence of a shareholder engagement policy

When the regulatory and marketing documents mention the existence of an engagement policy, the AMF recommends that it specify the procedures for accessing the documents that provide details on these aspects (voting and dialogue reports).

For funds developing a singular approach, the asset management companies are invited to contact the AMF or refer to guides dedicated to the most specific approaches:

1. [Position DOC-2007-19](#) relating to the non-financial criteria for asset selection and application to CIUs declaring themselves in compliance with Islamic law;
2. [AMF Position DOC-2012-15](#) relating to the criteria applicable to shared return funds;
3. [Guide on carbon offsetting](#) by collective investment undertakings published on 18 March 2019.

5.3. Marketing material for funds involving a non-financial aspect

The marketing in France of units or shares in UCITS or AIFs is defined³¹ as "*their presentation by different means (advertising, direct marketing, advice, etc.) with a view to encouraging an investor to subscribe to or buy them*". Regarding this, as a reminder, "*all investment service providers and financial investment advisers must ensure that all the information, including promotional information, aimed at retail or professional clients, or that could eventually reach such clients, meets the requirements for "clear, accurate and not misleading information", regardless of the chosen means of communication, which includes social media*"³².

The AMF has observed practices of CIUs, both French and foreign, in which the regulatory documentation did not provide for consideration of non-financial characteristics but which made it a key aspect in their marketing materials. In these circumstances, the information disclosed to investors cannot be considered as *clear, accurate and not misleading* in that the investment objectives and investment policies in the prospectus do not include a "promise" which appears in the marketing materials.

Position 5 applicable to the marketing in France of collective investment products referring to the consideration of non-financial criteria:

For clear, accurate and not misleading information, this requires that a non-financial characteristic not present in the regulatory documentation of a collective investment scheme cannot be mentioned in the marketing materials. Only clarifications of information already present in the regulatory documentation can be provided in the marketing materials.

Moreover, it should be noted that the marketing materials must contain a balanced presentation as specified in Position-Recommendation 2011-24. Accordingly, depending on the type of materials used, the space dedicated to less favourable features in the documents and the typography used will determine whether the information is accurate.

Generally, the AMF recommends the utmost transparency and the utmost caution regarding communications concerning the non-financial nature of CIU management. It thus reiterates one of the previous recommendations concerning the accessibility of non-financial reporting by extending it to all CIUs that make the consideration of non-financial characteristics a key aspect of their communication.

³¹ AMF Position – DOC-2014-04 - Guide to UCITS, AIF and other investment fund marketing regimes in France.

³² AMF Position-Recommendation DOC-2011-24 - A Guide to drafting collective investment marketing materials and distributing collective investments.

Recommendation 7 applicable to CIUs that make the consideration of non-financial characteristics in their management a key aspect of communication

The AMF recommends that non-financial reporting (whether or not incorporated in conventional financial reporting) be easily accessible from web pages dedicated to SRI, ESG or socially responsible thematic funds and that it be updated at least once a year.

This point is all the more significant in that the AMF regularly asks certain participants to revise the communications of CIUs employing **non-binding** non-financial strategies. For this type of collective investment scheme, the financial characteristics must always be predominant and the non-financial theme limited to a few factual indications presented in a section designed to report on the non-binding tools made available to the fund managers.

Recommendation 8:

Given the need to ensure that the information is balanced, the AMF recommends to asset management companies and distributors of CIUs that they add in the marketing materials warnings concerning the potential limitations of the non-financial strategy in a manner as visible as the favourable factors.

Moreover, when asset management companies and distributors of CIUs choose to compare non-financial factors against an indicator (improvement in greenhouse gas emissions relative to an index, trend of carbon emissions, etc.), it is recommended that said indicator be identical to that mentioned in the fund's regulatory documents. If other indicators are used, it is recommended to not select them ex post and to perform a comparison of the fund with those indicators on a long-term basis.

When the AMC or the distributor of CIUs wants to communicate concerning the contribution of non-financial aspects to the financial performance of a CIU, the AMF recommends that it provide an explanation based on objective factors. Likewise, the AMF recommends that these firms provide a presentation of the results of these contributions to financial performance that is constant, consistent over time and uninterrupted.

Lastly, the AMF invites AMCs and CIU distributors not to state a quantified non-financial objective in a promotional document without including a disclaimer reminding the subscriber that this objective is based on the realisation of assumptions made by the asset management company. Funds whose ambition is to comply with a maximum level of greenhouse gas emissions or predefined climate scenarios are especially concerned by this recommendation.

5.4. Specific case of products referring to "ISR"

In line with the AMF's increased requirements in its 2015³³ and 2017³⁴ reports and in order to ensure clear, accurate and not misleading communication on the use of the term "ISR" for funds that do not benefit from the eponymous label, the AMF is issuing a position applicable to CIUs using the term "ISR"

³³ This [report](#) states the following: "The following element is incorporated into AMF policy: The AMF recommends that any fund marketed in France wishing to promote SRI should publish a document explaining its approach along the lines of the European Transparency Code or adhere to a charter, code or label on the consideration of criteria relating to compliance with social, environmental and governance quality objectives."

³⁴ This [report](#) states the following: "Recommendations: In light of these findings on labelling, the AMF reiterates Recommendation 4 from its first report on SRI, calling on any fund marketed in France that wishes to promote its SRI credentials to publish a document explaining its approach, based on the model of the European Transparency Code, or to adhere to a charter, code or label on the inclusion of criteria relating to compliance with social, environmental and governance quality objectives. The AMF also recommends that funds marketed to retail investors that promote SRI characteristics obtain the SRI label. Now that a public SRI label has been introduced, using the same terminology for marketing purposes without having obtained the label may mislead investors."

Position 6:

In order to ensure that the information is clear and accurate and not misleading, marketing materials, KIID and prospectuses of collective investments using the term "SRI" must indicate that they do not benefit from the SRI label when they are not labelled.

5.5. Shareholder engagement and controversy verification policies

This section brings together two AMF recommendations on the publication of policies established at the level of the asset management company that may have an effect on fund management.

Management companies should be particularly vigilant about the presence of controversial issuers in their portfolios and the compatibility between the non-financial characteristics of these issuers and the objectives of the collective investment. This point is all the more relevant for approaches that make the consideration of non-financial characteristics in their management a key aspect of communication. In this regard, the AMF makes the following recommendation.

Recommendation 9: Controversy verification policy applicable to approaches that make the consideration of non-financial criteria a key aspect of communication

To ensure that the information disclosed on the non-financial characteristics of collective investment schemes is clear, accurate and not misleading, the AMF recommends that management companies authorised in France who make consideration of non-financial criteria a key aspect of communication should have policies for preventing and verifying controversies.

The list of potential controversies that may negatively affect the non-financial characteristics of products will, by nature, change over time and may depend on the sensitivity of investors to certain issues. These may include issuers that violate the UN Global Compact, are involved in the production of arms, tobacco, coal, unconventional gas and oil production, etc.

Furthermore, pursuant to Article L. 533-22 of the Monetary and Financial Code, which transposes the provisions of Directive (EU) 2017/828 of the European Parliament and of the Council (SRD2), portfolio management companies must publish a shareholder engagement policy describing how they integrate their role as shareholder into their investment strategies and must publish an annual report on the implementation of this policy³⁵. Article R. 533-16 of the same code specifies the content of this policy.

To encourage the adoption of best practices in the development of these policies, the AMF makes the following recommendation.

Recommendation 10: Shareholder engagement policy

The AMF recommends that asset management companies authorised in France that make the consideration of non-financial criteria a key aspect of communication or adopt a limited communication should indicate in their shareholder engagement policy:

1. non-financial objectives for shareholder engagement and guidelines for this purpose, broken down by country where appropriate;

³⁵ According to this article, AMCs may not make such a publication if "they publicly state the reasons for doing so on their website".

2. their feedback policy explaining the conditions under which the asset management company will strengthen its actions vis-à-vis issuers. After a phase of dialogue with the issuer, the following reinforcement measures may be considered, for example: ;
 - a. making public the action taken by the asset management company vis-à-vis the issuer;
 - b. specific actions undertaken at general meetings: votes against proposed resolutions, written or oral questions to the general meeting, filing of resolutions, etc.
 - c. placing the issuer under surveillance with, in particular, the absence of new investments or a reduction in exposure to the issuer.

The AMF also recommends that portfolio management companies authorised in France that make the consideration of non-financial criteria a key aspect of communication also indicate the following in this policy:

3. the possible link between the fund's non-financial objectives and the engagement;
4. priority issuers in terms of shareholder engagement in relation to the fund's non-financial objectives;
5. a section in their feedback policy mentioned in point 2 providing for the sale of securities on the issuer if there is no improvement after a given period (e.g. 2-3 years) and in the interest of holders and shareholders of the collective investment schemes. New investments may be conditional on the issuer showing positive results in relation to engagement actions.

6. MARKETING OF FOREIGN UCITS IN FRANCE

On several occasions, the AMF has drawn the attention of AMCs that market foreign funds in France to, among other things, inconsistencies between their name, their investment objective, the presentation of non-financial objectives and the constraints set out in the legal documents. In some cases, to prevent risks of misunderstanding of the products in France, they have modified the wording of the promotional documents of these UCITS at the AMF's request, in accordance with Article 411-126 of the AMF General Regulation.

Moreover, the AMF has observed several situations in which French funds made the consideration of non-financial criteria a key aspect of their communication and these funds were then transferred abroad – notably via cross-border mergers with takeover funds that were created in the six months preceding the transaction. In a number of situations, these transactions took place with a substantial reduction in the information appearing in the regulatory documents by comparison with the information that existed for the French funds. For example, as an illustration, regulatory documentation was removed:

4. the coverage rate of the securities in the portfolio by non-financial analysis and the minimum rating below which securities are excluded by the AMC;
5. the indication, for a collective investment scheme presenting itself as "*low-carbon*", that the scheme does not aim to reduce its carbon footprint in absolute terms but only relative to its parent index and hence that the companies in the portfolio will indeed be emitters of greenhouse gases;
6. for a collective investment scheme claiming to promote energy transition, several explanations concerning the methods for weighting "*grey and green*" companies in the portfolio.

To ensure that investors are well informed in all circumstances, the AMF states the following position.

Position 7 applicable to the marketing in France of UCITS incorporated under foreign law and making the consideration of non-financial characteristics in their management a key aspect of communication or adopting a limited communication

As mentioned earlier, the various positions and recommendations mentioned above apply to the drafting of communications to promote UCITS incorporated under foreign law. UCITS incorporated under foreign law which make the consideration of non-financial characteristics a **key** aspect of communication (for example, references in their regulatory documents or name) or in a **limited** manner, but which do not comply with Positions 1 to 4

and 9 may represent risks of misunderstanding of their non-financial characteristics by investors. These UCITS represent such a risk of inappropriate marketing that it **would be extremely difficult** to comply with the applicable legislative and regulatory obligations regarding marketing.

Hence, promotional communications of such UCITS must include the following statement in very conspicuous characters at the beginning of said communication: "Investors should note that, relative to the expectations of the Autorité des Marchés Financiers, this [UCITS] presents disproportionate communication on the consideration of non-financial criteria in its management". Where applicable, when the key nature of communication on non-financial aspects is transcribed solely in the name of the UCITS, the first sentence may be replaced by the following statement: "Investors should note that, relative to the expectations of the Autorité des Marchés Financiers, the name of this [UCITS] is disproportionate to the consideration of non-financial criteria in its management".

7. SPECIFIC CASE OF CERTAIN FEEDER FUNDS

This section adapts the aforementioned principles to the specific cases of French feeder funds of master funds incorporated under foreign law. Depending on the case, such master funds may make the consideration of non-financial criteria a key aspect of communication or adopt a limited communication without the approaches implemented being binding or significantly binding (Positions 1, 2 and 2bis) or without fulfilling the minimum information requirements (Positions 3 to 5).

In such a situation, and so as not to force the French feeder funds to select in their own regulatory documents the substance of the information appearing in the master fund's regulatory documentation which would comply with these various positions, the AMF has formulated the following position.

Position 8: French feeder collective investment scheme of master UCITS incorporated under foreign law and making the consideration of non-financial characteristics in management a key aspect of communication or adopting a limited communication

When the following two conditions combined are met:

- a) the master UCITS would be liable to come within the scope of Position 7 if it were marketed in France; and
- b) the feeder collective investment scheme replicates the information contained in the regulatory documents of the master fund that makes the consideration of non-financial criteria a key aspect of communication or adopts a limited communication on this point;

then, as an exception to Positions 2 to 4 and 6 mentioned above, these feeder funds must meet the following criteria:

- i. The fund's KIID provides for the following indication in very conspicuous characters at the beginning of the document : *"Investors should note that, relative to the expectations of the Autorité des Marchés Financiers, this [UCITS] presents disproportionate communication on the consideration of non-financial criteria in its management"*;
- ii. Position 7 is applicable to the marketing of these funds in France.

8. SPECIAL CASE OF THE USE OF DERIVATIVES AND SYNTHETIC EXPOSURES OF COLLECTIVE INVESTMENTS THAT INCORPORATE NON-FINANCIAL CHARACTERISTICS

To meet the financial objective of a fund, AMCs may implement two types of approaches, either exclusively or together. On one hand, AMCs can use the amounts collected from clients to invest them on behalf of investment funds they manage in assets defined in their investment policy (e.g. for a fund whose objective is to track an index,

to buy the securities making up the index). The fund acquires these assets, which are recorded on its balance sheet. On the other hand, the manager may expose the fund to the performance of these assets (e.g. through derivative contracts) without the fund acquiring them. The financial performance is then provided to the fund by the contract counterparty. This is known as "synthetic" exposure.

The AMF has observed that some funds wished to develop synthetic exposure strategies in relation with the performance of assets, baskets of funds or indices identified as "green" or "ESG". This type of strategy is regularly used, particularly in index management (for example, a fund indexed to the CAC 40). However, in the specific context of funds with non-financial aspects, this type of mechanism raises the issue of the actual impact of the investment made by the client, given the exposure to which it may be subject.

It should be recalled that **this section does not deal with structured products such as formula UCITS/FIVGs.**

8.1. Synthetic tracking: use of total return swaps

This section aims to present the approach generally used by managers for funds they manage with the aim of synthetically exposing them to a performance: exposure via derivatives and, in particular, the use of total return swaps (TRS). As defined by the SFTR regulation,³⁶ a total return swap is a derivative contract "*in which one counterparty transfers the total economic performance, including income from interest and fees, gains and losses from price movements, and credit losses, of a reference obligation to another counterparty*".

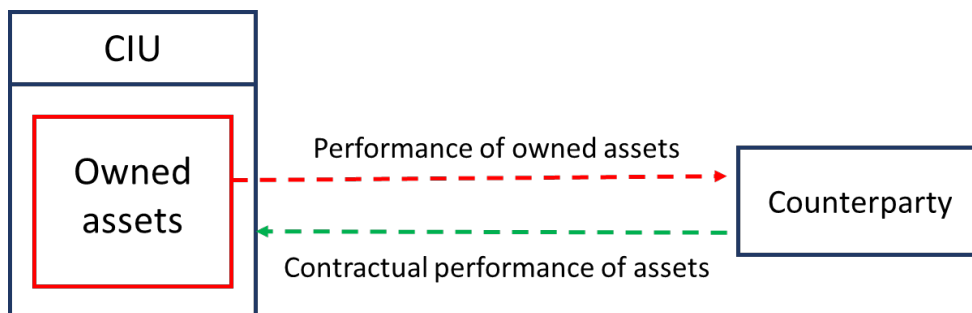
In practice, this section deals with a particular case of TRS: those that allow the mutual fund to contractually define the performance it receives from one or more counterparties by exchanging the performance of the securities it holds. This can be implemented either directly by entering into a single TRS or indirectly, by exchanging, via a first TRS, the performance of the basket of assets held against a market benchmark (e.g. LIBOR or EURIBOR adjusted with a contractual spread), before entering into a second TRS that exchanges a market benchmark modulated by a contractual spread, with the appropriate performance in order to achieve the promised return. It should be noted that for efficiency reasons, each stage can in practice be carried out with one or more counterparties (conclusion of one or more TRSs of the same type). This method is generally defined in contrast to achieving a fund's management objective by "directly" investing in the securities to which it wishes to be exposed. TRS are used, for example, in systematic management, including Exchange Traded Funds (**ETFs**) which synthetically track the index or basket of assets, as opposed to funds developing "physical" tracking methods that directly invest in the basket of securities or index whose performance they promise to deliver. In practice, in the second case, some optimisation techniques allow, when the basket or index tracked is large, to invest in only a part of it by limiting the tracking error, in order to reduce the operational costs of implementation.

The use of these instruments has many advantages, including allowing CIUs to gain exposure to costly markets or whose performance is difficult to track (e.g. emerging markets). It also allows for a potentially improved tracking quality compared to "direct" investment, as performance is contractually promised, whereas physical tracking can be subject to uncertainties such as tolerated tracking error or sampled tracking that can generate tracking error.

The simplified diagram below³⁷ shows the general functioning of a synthetic tracking fund using TRS:

³⁶ Regulation (EU) 2015/2365 of the European Parliament and of the Council of 25 November 2015.

³⁷ In this case, we consider tracking with a single counterparty, and in a single stage without going through a market reference.



Source: AMF

In practice, aside from the necessary remuneration of the counterparty, the received contractual performance of the assets may be adjusted with a positive or negative spread that depends on several market parameters, including securities lending and borrowing.

This means that two types of assets must be considered in the functioning of this type of CIU:

- assets to which the CIU **is exposed** without holding them: the fund does not hold these assets but receives their performance through the TRS;
- assets **held** by the CIU without being exposed to them: the fund holds these assets but transfers their performance through the TRS. In an unfunded synthetic structure (commonly used in France), the fund owns these assets, however, these securities are sometimes - incorrectly - referred to as "**collateral**" of the CIU in that the fund will only be exposed to changes in their value in the event of a counterparty default.

This diagram illustrates that, in the case of synthetic tracking, the assets actually **held** by the fund are of secondary economic importance to the fund's return profile (they are only economically important to the fund in the event of a counterparty default) compared to the assets to which the fund **is exposed** via the TRS.

8.2. Communication on the consideration of non-financial criteria

At this stage, several specifics need to be taken into account when collective investment schemes emphasise the consideration of ESG criteria, both in the assets held and the assets to which they are exposed. In particular:

- the assets to which the funds are exposed are generally invested by the counterparties, who however, do not contractually commit or provide the AMCs with means of verification in this respect. Counterparties may carry out, for optimisation purposes, lending transactions on these securities and they generally do not exercise their voting rights on these assets, which does not allow AMCs to communicate on the application of an engagement policy to the portfolio of these CIUs;
- the assets held by the funds are in principle not subject to any net investment flows as a result of the hedging implemented by the counterparty;
- there are various practices regarding the exercise of voting rights by asset management companies on securities held by funds when these are equities.

Furthermore, following the publication by the AMF of the third report on non-financial approaches in collective investment schemes,³⁸ professional associations have proposed a Charter - which appears in the Annex to this position-recommendation - proposing a contractual framework between CIUs and their counterparties.

These observations have led the AMF to draw up the following position and recommendations.³⁹

³⁸ In particular, Position n°1 as well as working proposals for the marketplace and participants.

³⁹ In line with the AMF's expectations regarding compliance with Articles L. 533-12 and L. 533-22-2-1 of the Monetary and Financial Code on the content of the information given to holders ("accurate, clear and not misleading").

Position 9 applicable to certain collective investments that communicate on the consideration of non-financial criteria in their management

Apart from the operational and contractual framework described in 1 below, communication on the consideration of non-financial criteria by funds making **very significant** use of total return swaps must be proportionate and restricted to the limited communication category, if they meet some conditions mentioned in sections 2 and 3 below.

1. In order for these collective investments to make the consideration of non-financial criteria a key aspect of their communication, the AMF considers that they must at least present the following characteristics:

- a. Contractual clauses between CIUs and their counterparties: the TRS must be governed by contractual clauses ensuring the absence of deterioration of the non-financial characteristics of the funds' exposure due to the hedging approach of the counterparty. These clauses must at least respect the standards set out in the AMAFI-FBF Charter presented in Annex II;
- b. Assets held by the CIU but with no exposure to them: The consideration of non-financial criteria for these assets must at least meet the requirements of a limited communication (see Position n°2 bis).

It should also be noted that under recommendation n°8 above, the AMF recommends management companies authorised in France that make the consideration of non-financial criteria a key aspect of their communication to adopt controversy management policies that also cover the assets held by the fund without being exposed to them.

- c. Assets to which the CIU is exposed without owning them: Overall the approach implemented by the UCI - including its exposure portfolio - must meet the requirements of the key communication approach (see Position 2);
 - d. Communication on the non-financial characteristics of assets held by the CIU without being exposed to them: the fund's marketing materials or KIID must not mention the non-financial characteristics of securities **held** by the CIU and whose performance is swapped by the TRS;
 - e. Information to unitholders on the absence of the exercise of voting rights on the securities to which the CIU is exposed: unitholders must be informed in one of the legal documents that the voting rights attached to the securities to which the CIU is exposed will not be exercised by the counterparties, except in specific situations to be described;
2. For all situations outside of the framework described in the previous paragraph, the AMF considers that the absence of deterioration of the non-financial characteristics of the funds' exposure induced by the hedging method used by the counterparty remains uncertain, and so funds using Total Return Swaps (TRS) in a very significant proportion of their net assets cannot present the consideration of non-financial criteria as a key aspect of their communication.
3. In order to provide limited communication about the consideration of non-financial criteria for funds using TRS for a very significant proportion of their net assets, the AMF considers that CIUs should at least respect requirements c) to e) mentioned in paragraph 1.

This position is also included in the scope of position 7 above on the marketing in France of foreign UCITS.

9. SUMMARY

The following table summarises the various applicable policy measures.

Type	Positions	Recommendations
Principle of proportion	1	
Approaches based on a significantly binding management approach	2, 3, 4, 5, 6, 7, 8, 9	1, 2, 3, 4, 5, 6, 7, 8, 9, 10
Non-significantly binding approaches	2bis, 4, 5, 6, 7, 8, 9	4, 6
Information in the KIID	3 (main methodological limits) 6 (use of the term SRI)	2 (description of the non-financial strategy) 3 (description of the non-financial strategy) 4 (Green/Social/Sustainability bonds)
Information in the marketing materials	5 (consistency of marketing materials/regulatory documents) 6 (use of the term SRI) 7 (marketing disclaimer) 8 (marketing disclaimer)	8 (methodological limits and non-financial indicators) 6 (engagement policy)
Information in the prospectus	4 (measurable objectives and non-financial analysis rate)	2 (description of the non-financial strategy) 3 (description of the non-financial strategy) 4 (Green/Social/Sustainability bonds) 5 (non-financial selection process) 6 (engagement policy)
Information apart from regulatory documents		1 (publication of non-financial information or adoption of a label, code or charter) 7 (accessibility of non-financial reports)
Shareholder engagement and controversy verification policies		9 (controversy verification) 10 (shareholder engagement)

ANNEX: EXAMPLE OF SENTENCES FROM KIID COMPLIANT WITH THE CONCISENESS AND BALANCE OF THE INFORMATION

The following phrases are examples that respect the concise and balanced nature of the information communicated in the KIID required for a limited communication on the consideration of non-financial criteria.

- Environmental, social and governance (ESG) criteria contribute to, but are not a determining factor in, the manager's decision-making.
- The management team takes environmental, social and governance (ESG) criteria into account in investment decisions, but not predominantly. The investment decisions taken may therefore not comply with ESG criteria.
- Although environmental, social and governance (ESG) criteria are one of the components of management, their weight in the final decision is not defined in advance.
- The positive contribution of environmental, social and governance (ESG) criteria can be taken into account in investment decisions, without being a determining factor in this decision-making.

These standard phrases should be included in the "Other Information" section of the KIID for communication in this medium to be considered as limited.