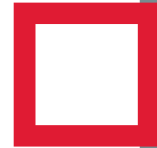

JULY 2020

SUSTAINABLE FINANCE

PROGRESS TO DATE AND MISSING PIECES: VIEWS FROM THE REGULATOR

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AUTORITÉ DES MARCHÉS FINANCIERS

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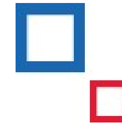


SUSTAINABLE FINANCE:

PROGRESS TO DATE AND MISSING PIECES: VIEWS FROM THE REGULATOR

Key takeaways

Europe is clearly ahead but implementation remains challenging

- The EU has accomplished much over the last two years, confirming **European leadership** in the field of sustainable finance; new tools and standards, including the EU taxonomy, are available for market participants to use and steps have been taken to support the integration of environmental, social and governance (ESG) risks
- However, the overall regulatory architecture is complex and will bring significant **implementation challenges**; the EU should work to provide clarity, limit unnecessary costs and ensure **consistency across the various pieces of legislation and throughout the investment chain**, from corporate reporting to investor duties

Regulatory framework for sustainable investments should go one step further

- The market for sustainable investments is booming; although new disclosure requirements will provide more information on products' ESG characteristics and objectives, it is **unlikely that it will suffice to prevent greenwashing** and ensure a level-playing field; one additional challenge is the absence of **a common understanding of key terminologies** for sustainable investments
- **Minimum standards** should therefore be defined for products which highlight ESG considerations as a key selling point
- In a moving and complex environment, public labels are useful for both retail and professional investors; the EU should initiate work on an **EU RI or ESG label** for investment products
- Efforts are also necessary at the **distribution** level, to step up training of advisors and to prepare for the forthcoming requirements on customers' ESG preferences

Prompt action is needed on corporate non-financial reporting and ESG ratings

- The success of the EU Sustainable Finance Action Plan very much depends on the availability and quality of corporate disclosures: Europe should introduce **more harmonised non-financial reporting requirements for corporates**, applying to a broader base of listed and non-listed entities, and move quickly to deliver **robust ESG reporting standards**
- Given the growing importance of ESG data in financial markets, Europe should develop **a regulatory and supervisory framework for ESG ratings and data providers**

Initiatives for sustainable finance should be fully integrated with other ongoing work, in particular CMU

- Initiatives to support sustainable finance should not be disconnected from the re-launch of the EU **Capital Markets Union**, and in particular measures to support equity funding and long-term investment
- **Supervisory convergence** and capacity building at supervisors should be encouraged
- **The international dimension is key** – Europe should continue to lead by example and move the sustainable finance agenda forward in international fora

Background

Europe has achieved truly significant progress over the course of 2019 in the sustainable finance agenda. The European Commission has delivered on major pieces of its 2018 proposed Action Plan and clear milestones have been set. New requirements will enter into force soon, including sustainability-related disclosure requirements for financial products and institutions, ESG (environmental, social and governance) disclosures for benchmarks and, at a later stage, disclosure requirements on taxonomy-related activities for corporates. In addition, a number of existing legislations have been amended, notably to require sustainability preferences to be considered in financial advice as well as the integration of sustainability risks into risk management frameworks.

Meanwhile, many market participants have expressed their **commitment to sustainable finance** and pressure is mounting rapidly from institutional investors, supervisors and society in general to ensure that the financial system contributes to a more sustainable form of economic development, and, in particular, helps respond to the immense and numerous challenges posed by climate change. In France in particular, many asset managers have plans to integrate ESG considerations across their product range and are focusing their sales offering on products promoting sustainable strategies.

Our roadmap for sustainable finance

The AMF set out its own roadmap for sustainable finance in late 2018 and has done considerable work over the last eighteen months to better grasp the issues at stake. We have established a Climate and Sustainable Finance Commission, composed of experts from corporates and financial institutions, third parties, as well as academics and NGOs to support us in our efforts to roll out that roadmap. Our recent publications on sustainable finance are listed at the end of the paper.

Our objectives as a regulator are twofold:

- Firstly, to **support the changes** in the market that will be needed for the reorientation of capital and contribute to the development of an efficient regulatory framework,
- Secondly, to **preserve investor confidence** in a rapidly growing and innovative market, and, in particular, take action to limit the risk of greenwashing.

Europe needs to take stock and agree on next steps

The views expressed below intend to contribute to the discussions with our counterparts, the European Commission, co-legislators and market participants. They summarise our past months' observations and suggest possible ways forward to drive the sustainable finance agenda forward, *i.e.* effectively implementing the new rules and completing the framework where needed. The paper, however, does not cover all relevant subjects as shown in the European Commission's consultation for a "Renewed strategy for sustainable finance".

It will be important for the EC's revised strategy to take stock of the changes made, create the conditions for an efficient implementation, and provide a clear picture of the future path. The European Union has offered the market a clear head start, which could help to set global standards. How it now delivers will be key.

The remainder of the paper is organised in two parts:

- Proposals on sustainable investments and investors,
- And proposals on corporate ESG disclosures and ratings.

1. THE RISE OF SUSTAINABLE INVESTMENT: DELIVERING EFFECTIVE DISCLOSURES FOR INVESTORS AND SETTING MINIMUM STANDARDS

☐ Proposals regarding products' sustainability-related disclosures

The EU Sustainable Finance Disclosure Regulation (SFDR)[1] lays down harmonised rules for sustainability-related disclosures at entity and product level, including specific requirements for products displaying ESG characteristics. The Regulation defines two broad ESG product categories:

- Products promoting environmental or social characteristics or a combination of those characteristics ("Article 8 products" or "light ESG products");
- Products with sustainable investment as their objective ("Article 9 products" or "dark ESG products").

The Joint Committee of the European Supervisory Authorities (ESA) is currently consulting on draft Regulatory Technical Standards (RTS) for SFDR. Drawing lessons from the implementation of existing French climate and ESG disclosure requirements for investors ("Article 173"[2]) and from our review of products marketed in France, we believe that the **information disclosed according to SFDR should comply with the following principles:**

- **Proportionality in the information provided:** market participants should adapt the information provided in the legal and marketing documentation to the objective(s) and actual impact of the non-financial approach implemented at product level; in particular, it should be clarified, through the upcoming SFDR RTS, that financial institutions should not over-emphasise non-financial considerations if such considerations have little impact on the product characteristics; in other words, in order to prevent greenwashing, if little is done on ESG, little should be said;

To limit the risk of misleading information and greenwashing, if little is done on ESG, little should be said

- **Concise but meaningful information:** the information provided to investors should include sufficient details to allow them (and supervisors) to understand the fundamental ESG characteristics of the products and how ESG objectives (if any) will be achieved, while avoiding information overload; inclusion of ESG information in the legal documentation of the product is important since this clarifies the responsibility of the product manufacturer with regard to the end-investor;

Future disclosures should enable investors to understand fundamental ESG characteristics

- **Structured information supported by a common template:** there is still much progress to be made for good product disclosure on ESG[3]; the best approach to ensure conciseness and effective disclosure is to encourage a common template structured around a few themes and critical questions – the RTS should facilitate the adoption of such templates, with additional information available on websites;

- **Comparability, including in marketing communications:** developing a template for pre-contractual information will also facilitate comparability among ESG products, especially as the two "Article 9" and "Article 8" categories defined by SFDR remain broad (see below); accordingly, it would also be useful for the Joint Committee to develop Implementing Technical Standards (ITS) on marketing documents, as provided under SFDR; where needed, templates should allow some flexibility to accommodate differences between types of financial products (funds, insurance contracts or pension products);

[1] 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.
[2] Article 173-VI of the 2015 Law on Energy Transition for Green Growth requested investors to disclose information concerning their contribution to climate goals, as well as a description of methods for incorporating ESG factors into investment strategy. The Article was modified by Article 29 of the 2019 Energy and Climate Law which anticipates the implementation of SFDR in French legislation.
[3] See Morning Star, *European Sustainable Funds Landscape*, 08/2019: *"The information provided in legal and marketing documents about how funds – both sustainable and traditional – use ESG is often incomplete and unclear. This, coupled with a lack of standardised language, makes it difficult to understand the extent to which funds adopt ESG. It also makes categorising and comparing strategies challenging."*

- **Convergent supervisory practices:** as envisaged notably in ESMA's "Strategy for sustainable finance" published in February 2020, ESAs should facilitate capacity building and encourage convergent product approval practices among national competent authorities (NCAs) – this will include the development of a common understanding of the new concepts introduced in SFDR which will be instrumental in the supervision of ESG products.

☐ Proposals for minimum standards for sustainable investment funds

Several industry papers[4] have voiced concerns regarding potential greenwashing and the risk of confusion for investors given the broad scope of green, ESG and responsible investment strategies at both fund and manager levels. These papers stress the need to develop common terminologies.

At this stage, three main categories seem to emerge:

- Exclusions or ESG screened investments, including ethical funds, norms-based or sectoral exclusions, exclusions based on ESG risk assessment or scoring,
- ESG or "responsible" or "sustainable" investments, including *best-in* class strategies, ESG tilted or thematic investing,
- Impact investing, *i.e.* investments pursuing measurable positive environmental and/or social outcomes, alongside financial returns.

However, there is **neither consensus on definitions nor are there clear delineations** between those broad categories, which might involve some combinations and **different levels of ambition within each category** (including to respond to diverse investors' needs and objectives), and may further vary depending on the asset classes and investment strategies considered. The **application of SFDR classification to these categories is not straightforward either**, and neither are the links with traditional "(socially) responsible" investing and actions taken at the level of the manager, such as broad ESG integration strategy and stewardship.

Better disclosure is not sufficient to prevent ESG-washing and ensure a level playing field

In this context, better disclosure will be helpful but might not be enough to prevent the risk of ESG-washing, especially for retail investors, and ensure a level playing field between market participants wishing to offer a broad range of different sustainable products. In some cases, the abundance of information provided can actually give a false impression about the actual impact of the ESG approach. This is particularly the case **when the ESG approach implemented has only a slight impact on the fund strategy and objectives while the marketing information remains centred on ESG considerations** or **if the name of the product refers to ESG**. In such cases, even if it is possible to balance the ESG rationale with appropriate disclosures on the limits of the approach, there is a risk that investors might be misled to think that ESG factors represent a material element in the fund strategy or misunderstand the product's contribution to sustainability objective(s).

[4] See IIF, *The case for simplifying sustainable investment terminology*, 11/2019; IA, *Responsible Investment Framework*, 11/2019; Blackrock, *Towards a common language for sustainable investing*, 01/2020; ICMA, *Sustainable finance, High level definitions*, 05/2020. IA notes that consumers could easily be left *"confused"* or *"unable to find the investment opportunities"* that match their responsible investment goals due to the variety of terms and phrases, used in a number of different ways, that are attached to investment funds. Similarly, IIF finds that *"firms are using close to 80 different terms to describe various forms of sustainable investing. At best, this confusion makes it hard to compare investment products and for clients to understand the differences in offerings. At worst, it facilitates greenwashing—intentionally misleading investors or giving them a false impression about how well their investments are aligned with their sustainability goals."* ICMA stresses that *"the use of "climate", "green" and "sustainable" as if they were interchangeable terms may dilute the urgency of making progress in climate mitigation and sustainable growth policy goals"*.

In this context, to preserve investor confidence in the rapidly growing RI market, we believe it is necessary to define minimum standards at EU level for **funds using ESG as a focal point of their communication** (*e.g.* in the denomination of the fund, in the "Key Investment Information Document" (KIID) or as the main focus of the marketing documentation). These standards would contribute to a level-playing field and facilitate a better understanding by investors, especially retail, confronted with myriad of products marketed as "ESG", "RI" or "sustainable". Furthermore, changes in EU regulations governing financial advice (MiFID 2 and IDD) will require investment firms and insurance product distributors to consider sustainability matters when providing their clients with advice. In such context, minimum standards would offer investors further guarantees and clarifications on the basic characteristics of the products offered by their advisor if they express ESG preferences.

The standards should be principles-based and *not* prescriptive in terms of approaches, nor hinder innovation, but should reflect the fact that the market for responsible investment has evolved considerably over the past 12-18 months and is now targeting a broad investor base.

In the case of France, in the face of rapid market developments and growing risk of greenwashing, the AMF has adopted **specific guidance for products *using ESG as a key marketing argument*, based on the following principles:**

- **Measurable and meaningful impact on the investment strategy:** for products using ESG considerations as a core element of their communication, the ESG approach should have an impact on the investment strategy, *i.e.* the investment strategy should be significantly different from an investment strategy which does not entail ESG considerations and the distinction can be demonstrated:
  - For strategies carrying out asset selection based on ESG ratings, quantitative criteria can be defined regarding the reduction in the investable ESG universe relative to the fund's initial investment universe or the improvement in overall portfolio ESG scoring;[5]
  - For other strategies, other objective criteria can be used to demonstrate the impact on the strategy.

- **Minimum safeguards at portfolio level:** in order to meet investors' growing expectations regarding ESG products and preserve investor confidence, only a minority fraction of the portfolio (*e.g.* less than 10% by number of issuers or by net fund assets) should be exempt of any ESG analysis.

- **The case of exclusions:** the screening/exclusion-based approach is one of the most longstanding responsible investment strategies and represents a significant part of assets qualified as sustainable investments. Exclusions are relatively easy to implement and easy to understand for investors; a number of investors and asset managers have also recently strengthened their coal exclusion policies reflecting the growing awareness of the climate emergency. However, given how market perception of sustainable investments has evolved, we believe that funds that merely exclude a limited number of sectors or issuers from their investment universe, such as controversial weapons, coal or tobacco, should not refer to ESG prominently in their communication.

When ESG is used as a key marketing tool, strategy should be different from a traditional investment strategy

These examples illustrate the need for **an EU approach** to clarify the conditions under which a product can put a strong emphasis on ESG characteristics in its product denomination or marketing documentation**.** The preliminary approach tried out in France could serve as a basis for discussion. Nevertheless, other matters will need to be considered, such as the quality and relevance of ESG data used for the implementation of ESG investment strategies, reporting on impact and the role of **investor engagement**.

[5] For instance, the French public SRI label imposes a 20% reduction in the investable ESG universe (*i.e.* the worst 20% of issuers are eliminated based on their ESG score) (selective approach) or a significant improvement of the ESG rating of the portfolio following the elimination of the worst 20% of issuers based on their ESG scores (score improvement approach).

☐ Proposals for common work on key terminologies

Preliminary discussions with market participants and between supervisors suggest that SFDR raises a number of questions on terminologies, at a time when market innovation is growing rapidly. We agree on the need to **reach a common understanding of key concepts**, such as:

- what national authorities should consider as "**sustainable investments**" according to SFDR, *i.e.* investments that satisfy a product's investment objective ("article 9" category), ideally building on the Taxonomy;
- the delineation between what constitutes a "**sustainable investment objective**" ("article 9"), as opposed to "**environmental or social characteristics**" ("article 8");
- when a financial product qualifies as having a "**reduction in carbon emissions objective**", and as a result falls under the scope of "article 9" (paragraph 3), as opposed to other low carbon strategies (see also below);
- the different strategies currently captured under "**impact investments**" and the links with the "article 9" category, possibly together with commonly agreed minimum standards.

Finally, the European Commission should ensure that there is no regulatory competition between different products. In particular, the scope of the Sustainable Finance Disclosures Regulation does not cover all investment products, and notably, fails to encompass ESG structured notes, a market segment which is growing rapidly.

☐ Proposals for EU Responsible Investment (RI) or ESG label(s) to complement the EU Ecolabel for both retail and professional investors

Close to 1,000 sustainable and green funds were labelled at the end of March 2020 in Europe, representing more than €300 billion in assets under management. This rapid growth has not led to a convergence between the nine existing domestic – public or private – labels, of which four are "green" labels and five are "ESG" labels.[6] The co-existence of different domestic labels, with different types of constraints and obligations and using different terminologies, adds further complexity to the European market for responsible/sustainable investment, not to mention market fragmentation and unnecessary costs. This situation also creates confusion for investors and undermines the effectiveness of the EU passport, since distributors in some jurisdictions will not market ESG funds unless they are awarded a national label, thus forcing some funds to apply for several labels.

In such context, we urge the European Commission to **initiate work to establish an EU RI or ESG label** which would complement the ongoing work on the EU Ecolabel. Both labels (the EU RI/ESG label and the EU Ecolabel) could be used for distribution to **both retail and professional investors**. Europe could also consider developing, for instance, a label for social investments, an area which could grow rapidly following the Covid-19 crisis, or a label for impact funds, another segment which is raising interest from investors.

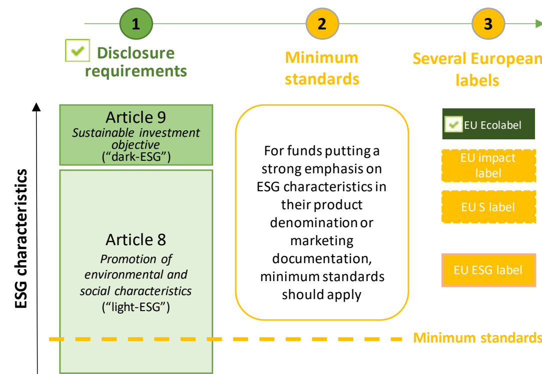
Such a label would be useful for EU investors but could also **prove attractive to non-EU investors**, who are already familiar with EU regulatory frameworks such as the UCITS brand and are interested in the skills and expertise developed in Europe around responsible investment. There is hence an opportunity for Europe to set a new standard recognised internationally.

A "RI" or "ESG" UCITS could be an attractive option for both EU and non-EU investors

Once again, the purpose is not to hold back innovation in a market for sustainable investments which is evolving rapidly and serving different objectives and needs, but to **offer investors reference points**. The following diagram illustrates the pieces already in place (in green) and the areas where we see a need for further work at EU level (in orange) in relation to sustainable investment.

Such work at EU level on minimum standards, terminologies and labels will need to be complemented by efforts to train advisors and educate investors on the broader universe of sustainable investment products.

[6] See Novethic/CDC, *Overview of European Sustainable Finance Labels*, 06/2020.



☐ Proposals on sustainability-related disclosures at entity level

In addition to products, SFDR defines a number of disclosures for financial market participants. Information at entity-level will include the following items:

- Transparency of sustainability risk policies
- Transparency of adverse sustainability impacts at entity level (for entities with over 500 employees)
- Transparency of remuneration policies in relation to the integration of sustainability risks

Entity-level disclosures will serve as an incentive to raise the bar and encourage more sustainable practices

These new requirements mark a significant step forward to encourage market participants to better consider ESG factors. Since most market participants are now positioning themselves as responsible financial institutions, such new disclosures will be helpful for investors and clients who wish to compare intermediaries and confront business strategies with actual measures taken. Again, based on our experience of the implementation of Article 173, it is necessary **to define and present the relevant information** so that it is comparable and meaningful. This is also increasingly important since it can be difficult for an investor to differentiate between the approach developed at entity-level and what is relevant at product-level.

Regarding principal adverse impacts, the Joint Committee's consultation on SFDR RTS envisages a **set of common indicators** at entity-level. Although the fields covered are commonly agreed ESG themes, supervisors are conscious that the associated data have yet to be readily available and that some indicators are encountering issues of a methodological nature. Computation across portfolios also raises questions. However, such indicators will **encourage better integration of ESG risks as well as support improvements in data and methodologies**. Responses to the consultation will help support the discussion on the most relevant list to be considered, which should evolve over time (notably in exploratory areas such as risks to biodiversity).

SFDR also imposes disclosure obligations regarding actions taken. In this respect, as many asset managers and asset owners increase their efforts – and their communication – on sustainability, it will be important to demonstrate the actions taken, and, where possible, the results achieved in this field.

Finally, considering that no technical standards are expected regarding sustainability risks disclosures, authorities should ensure supervisory convergence at ESA level and could consider developing guidelines.

☐ Proposals to improve the benchmark framework as a tool to support sustainable investment

The new EU regulations give benchmarks a central role in the development of sustainable investment products. The case of products "pursuing a reduction in carbon emissions" objective is particularly eloquent, since SFDR[7] would imply that such products will have to rely on a labelled EU Paris-Aligned Benchmark (PAB) or EU Climate-Transition Benchmark (CTB) (as defined in the Benchmark Regulation (BMR)) in order to justify the delivery of their sustainable investment objective.

The following points should be borne in mind when considering the current benchmark framework:

- Promoting benchmarks as a tool for sustainable investment requires **consistency between requirements imposed on investors and requirements imposed on benchmark administrators**. For instance, KPIs for benchmarks should be consistent with adverse impact-related disclosures required from financial products (see above). By the same token, transparency on selection criteria for EU PAB/EU CTB indices should be consistent with the transparency required from "Article 9" investment products under SFDR.
- **Climate investment strategies are likely to evolve rapidly**. The approach regarding EU PAB/CTB standards should be reviewed regularly in order to avoid obsolescence of the standards. It is also worth noting that, in contrast to the initial European Commission's proposal, the final BMR provisions do not include requirements for low-carbon benchmarks, a segment that might also warrant regulatory attention.
- The **supervisory framework** for assessing the compliance of benchmarks marketed as EU PAB/CTB with the defined standards needs to be clarified. The national competent authority of the benchmark administrator should be responsible for such supervision, while perhaps setting up an escalation procedure for national authorities supervising products using such indices. The conditions for a specific authorisation for a benchmark administrator to start offering labelled indices should also be explored.

2. SUSTAINABLE INVESTMENT NEEDS ROBUST ESG DATA

☐ Proposals for better ESG data from corporates

The success of the EU Sustainable Finance Action Plan very much depends on the availability and quality of ESG corporate disclosures. When introducing both financial materiality and environmental and social materiality (double-materiality), the European Non-financial Reporting Directive (NFRD), in many ways, has laid the foundation of much of the current thinking in the field of sustainable finance.

However, the current framework has to be improved:[8]

- Investors complain about the lack of comparability and robustness of ESG information reported by corporates, together with a surfeit of information and a proliferation of non-financial performance indicators calculated using different methodologies
- Companies complain about a myriad of requests from ESG rating agencies and investors and are uncertain about how to address double-materiality and respond to the needs of a variety of stakeholders
- The coexistence of numerous reporting standards and the lack of assurance for reported data add further to the confusion and undermine confidence in the quality of reporting
- Although climate reporting is making progress, the framework remains largely voluntary[9]

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[7] Article 9, paragraph 3.

[8] See notably ESMA, *Report on undue short-term pressure on corporations from the financial sector* (§55), Dec. 2019 and P. de Cambourg, *Ensuring the relevance and reliability of non-financial corporate information: an ambition and a competitive advantage for a sustainable Europe*, May 2019, as well as our November 2019 CSR Report.

[9] Recommendations of the Task Force on Climate-related Financial Disclosures (TCFD) and European Commission's guidelines on reporting climate-related information.

- At the same time, ESG data is growing in terms of influence as they are progressively incorporated in research, credit rating analysis, benchmarks and investment strategies in general (see above)
- Existing corporate reporting requirements are not sufficient for investors and financial intermediaries to be able to meet the new EU requirements arising from the EU Sustainable Finance Action Plan, including from the Disclosures, Benchmark and Taxonomy Regulations, but also other provisions regarding investors and asset managers' integration of sustainability risks.

Since ESG data is becoming increasingly important for financial markets, it is imperative that we progress collectively towards more robust and comparable ESG information. Although there is no silver bullet in matters as complex and diverse, where qualitative assessment remains essential, the upcoming NFRD review offers an opportunity for Europe to clarify and harmonise the current reporting framework and set robust standards. As further detailed in our answer to the European Commission's consultation, we believe the NFRD review should address at least the following points:

- **Define more binding disclosure rules for corporates with better consistency throughout Europe**, *e.g.* deleting national options and requiring that provisions of Directive 2014/95/UE carry maximal harmonisation and/or establish an EU Regulation. The review of the Directive also provides the opportunity to turn all or part of existing non-binding guidelines into mandatory requirements, first and foremost, the ones regarding climate reporting.

As investor pressure increases, Europe needs to deliver a robust ESG reporting standard quickly

- **Ensure a robust review and enforcement framework**, *e.g.* by integrating the non-financial statement into the management report. This will also help ensure that environmental and social issues are considered at the highest level in companies' strategy.
- **Provide further guidance on key elements of the non-financial statement such as materiality**, *e.g.* clarifying the current definition to provide corporates with objective criteria to assess the level of materiality of their non-financial risks and opportunities, while keeping companies responsible for the materiality test.
- **Require a mandatory review of the content of the non-financial statement by an independent assurance services provider,** such review would not only help issuers ensure their reporting is consistent, but also that the data collection process as well as the methodologies used for the indicators are robust.
- **Harmonise the requirements between listed and non-listed large corporates and consider the most appropriate reporting framework for small and medium-sized enterprises** (SMEs). While requiring SMEs to apply the same standards as large companies would entail a disproportionate burden, it is important to incentivise them to report, as well as to facilitate their work by providing a common, alleviated framework. Encouraging SMEs to draw up a non-financial statement, and assisting them in doing so, would also contribute to reduce the ESG bias that tends to favour large companies and help SMEs answer the growing requests from a number of their stakeholders (including clients, banks, investors, etc.).

The European Commission has also asked the European Financial Reporting Advisory Group (EFRAG) to commence preparatory work on non-financial reporting standards. The **timeframe** for developing these standards is crucial. In addition, **robust governance should be defined for the standard-setting process**, ensuring independence, accountability, prevention of conflicts of interest, participation of relevant stakeholders and robust and transparent consultation processes. European Supervisory Authorities, and in particular ESMA, should have a key role in the elaboration of such standards.

Consistency between different texts is key

Finally, as mentioned, **consistency between the different new EU texts** for sustainable finance, and in particular, consistency between different **key performance indicators requested by regulation** (BMR, SFDR, Taxonomy Regulation), as well as their underlying methodologies, is key. As market participants (corporates, investors, index providers, asset managers, investors, etc.) start preparing for the new requirements, it is crucial to **make sure that these obligations are compatible and coherent** (*e.g.* between the future Non-financial reporting legislation and the new Taxonomy and Disclosure Regulations).

☐ Proposals for a more robust ecosystem for ESG information

Much of the sustainable finance's credibility and robustness relies on third party data

Given the complexity to access and analyse ESG information at corporate level, third party providers play an increasingly important role. Index providers, asset managers, asset owners, banks, corporates, or credit rating agencies, are increasingly dependent on such providers to assess ESG risks and opportunities. In contrast, these providers remain largely unregulated. In recent years, the market landscape has also quickly changed, with a number of acquisitions by stock exchanges, credit agencies, index providers or other market participants. This can lead to an increasing level of concentration, potential heightened risks of conflicts of interest and issues of market power. Investors and corporates also regularly raise concerns on transparency and comparability of ESG ratings and scoring methodologies[10], as well as regarding the existence of potential biases.

We therefore welcome the European Commission's interest in the topic and support a legislative initiative to respond to these concerns. The future framework should take into consideration the need to preserve a diversity of providers and proportionality. ESMA should be responsible for registration and supervision. Rules should be developed to ensure the appropriate management of conflicts of interest, as well as the transparency and robustness of methodologies.

[10] See also Berg, F., Kölbel, J. and Rigobon, R., Aggregate Confusion: The Divergence of ESG Ratings (May 17, 2020).

Acronyms:

- BMR Benchmark Regulation
- CMU Capital Markets Union
- CTB Climate-Transition Benchmark
- EFRAG European Financial Reporting Advisory Group
- ESA European Supervisory Authorities
- ESG Environmental, social and governance
- ESMA European Securities Markets Authority
- KIID Key Investment Information Document
- IDD Insurance Distribution Directive
- ITS Implementation Technical Standards
- MiFID Markets in Financial Instruments Directive
- NCA National Competent Authority
- NFRD Non-Financial Reporting Directive
- PAB Paris-Aligned Benchmark
- RI Responsible Investment
- RTS Regulatory Technical Standards
- SFDR Sustainable Finance Disclosures Regulation
- SI Sustainable investment
- SRI Socially Responsible Investment
- TCFD Task Force on Climate-related Financial Disclosures
- UCITS Undertakings for Collective Investments in Transferable Securities

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AMF publications:

- AMF, *Response to the European Commission's public consultation on the review of the Non-Financial Reporting Directive*, June 2020
- AMF, *Information to be provided for collective investment schemes implementing extra-financial approaches*, March 2020
- AMF, *Feedback to the European Commission's Inception Impact Assessment*, Feb. 2020
- AMF, *Fourth report on corporate social, societal and environmental responsibility*, Nov. 2019
- AMF, *Perception study: French people and responsible investment*, Sep. 2019 (Audirep for the AMF)
- AMF, *Legibility study of "SRI" investment documentation*, Sep. 2019 (CSA for the AMF)
- AMF/ACPR/CGDD/DGT, *Joint report on the application of the provisions of Decree No. 2015-1850 implementing Article 173-VI of the Energy Transition Law for Green Growth relating to investors' non-financial reporting*, July 2019 (in French only)
- AMF, *Main findings from onsite (SPOT) inspections on ESG integration and responsible investment*, July 2019
- AMF/AFM, *Green bonds prospectus – Joint position paper of the French and Dutch authorities*, April 2019
- AMF, *Sustainable finance: What is the role for the regulator: AMF Roadmap*, Nov. 2018