



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, especially investors. Given 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 consideration of non-financial characteristics should be **proportionate** to the actual consideration of these factors. Accordingly, only the approaches that are significantly engaging will be able to present non-financial criteria as a **key aspect of product communication**, e.g. in their name;

In this context, the AMF publishes a policy, defining a number of criteria making it possible to assess the effective nature of the approaches used. **The principle is that the objectives of consideration of non-financial criteria must be measurable and that this consideration must have a significant impact on the objectives defined by the market participant.** In the specific case of rating upgrade approaches or approaches based on selectivity in relation to a benchmark investment universe, the criteria are based notably on the thresholds 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 smoother changes in fund managers' product ranges, the AMF facilitates the procedure for product modifications designed to take into account non-financial characteristics by no longer

requiring that this constitute as such a change subject to its authorisation. As such, specific information will have to be communicated to investors¹.

This policy constitutes a first significant evolution in the AMF's policy concerning information to be provided for collective investment products entailing a non-financial aspect authorised for marketing in France to a clientele of **retail investors**. It applies to:

- asset management companies of French UCITS and French alternative investment funds that can be marketed to retail investors: general purpose investment funds (FIVG), private equity funds including retail private equity investment funds, retail venture capital investment funds and retail local investment funds, real estate collective investment undertakings (OPCI) and real estate investment companies (SCPI),² employee investment undertakings, funds of alternative funds, and "Other AIFs" when the latter have at least one non-professional unitholder or shareholder³;
- the entities marketing such collective investment products in France, but also UCITS incorporated under foreign law⁴.

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 engaging methodology will be able to mention it in their communication without making it a key aspect of communication. The AMF is currently working on an "intermediate" form of communication (e.g. standard phrases in the KIID). An update of this policy in this respect should be published soon.

This policy corresponds to a context in which the approaches allowing for these criteria are diverse and changing over time. It is also designed as a response to a specific context in which numerous fund managers are considering making changes to existing funds to include consideration of non-financial characteristics. Accordingly, and while far from exhausting all issues regarding the quality of non-financial information disclosed on these CIUs, this initial revision is characterised by the definition of a set of minimum standards allowing non-financial criteria to be made a key aspect of product communication. **The compliance to the standards mentioned in this guidance does not imply that the methodology used by the asset manager have a real impact.** These standards can be summarised by the following diagram⁵.

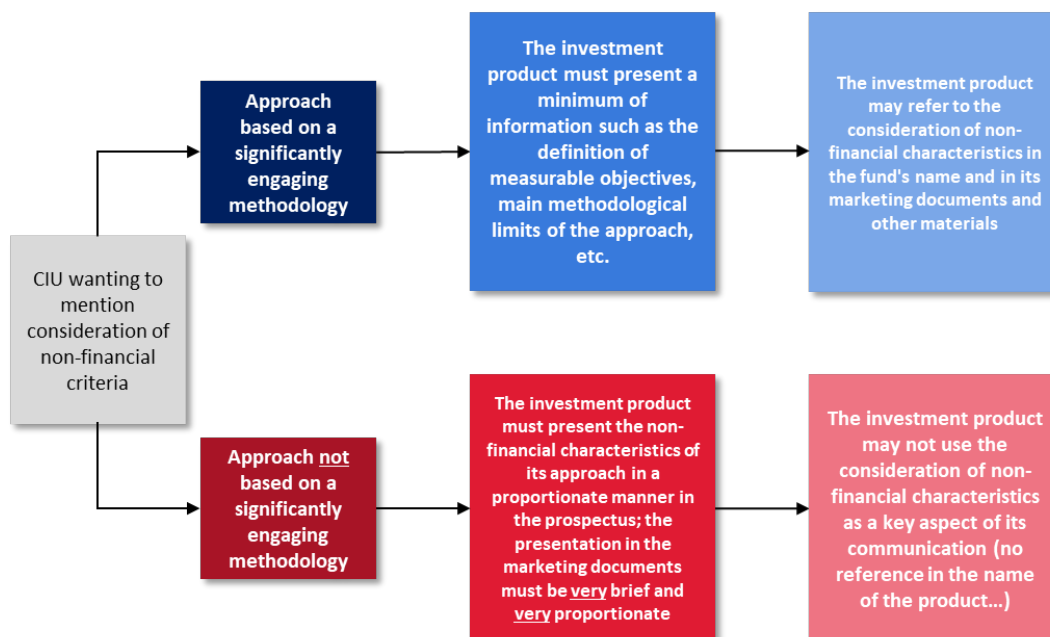
¹ For UCITS, retail investment funds (RIF), funds of alternative funds (FAF) real estate undertakings for collective investment (OPCI), professional real estate collective investment undertakings (OPPCI), private equity funds and employee investment funds (FCPE)

² For 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 information prospectus (mentioned in Instruction 2019-04: "Real estate investment companies, forestry investment companies and forestry investment groups").

³ 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.

⁴ Via the provisions applicable to UCITS distributors in accordance with the provisions of Article 411-126 of the AMF General Regulation.

⁵ Excluding feeder funds mentioned in section 7 and structured funds.



This policy may have to be refined in the future depending on evolving European regulation and changing market practices and to have a finer distinction between the various non-financial investment management approaches.

This policy could, in particular, be reassessed depending on the outcome of the work on the delegated acts of the "Disclosure Regulation"⁶. Pursuant to the article 11 of this regulation AMCs and AIFs will be required to disclose periodic information to assess the extent to which environmental or social characteristic are met⁷ or on the sustainability-related impact of the products⁸. At this stage, this regulation does not determine minimum standards for products mentioning non-financial criteria.

Moreover, the policy does not cover the general information disclosed by AMCs concerning their responsible management approach (e.g., involvement in voluntary standards, etc.). Certain specific issues, such as the non-financial approaches implemented by structured UCITS and 'FIVG' general investment funds, are not covered by this policy at this stage either.

For the purposes of this policy:

- "Regulatory documents" shall be 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 forwarded beforehand to the AMF for authorisation or the issue of an approval of the CIU's information prospectus.
- "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 verbally.⁹

⁶ 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.

⁷ For financial products mentioned at the article 8 of this regulation

⁸ For financial products mentioned at the article 9 of this regulation

⁹ AMF Position-Recommendation DOC-2011-24

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

The following policy applies with the following timeline

1. Creation of collective investment products, products modifications and notification of cross-border marketing of a foreign-based UCITS¹⁰: **immediate** application
2. Existing products:
 - a. Update of the name of the product, its marketing materials and KIID: compliance by **November 30th 2020** at the latest;
 - b. Prospectus: compliance by **March 10th 2021** in line with the date mentioned at article 20 of the Disclosure regulation;

Notwithstanding with point b), Position n°4 applies at the latest on **November 30th 2020**¹¹.

During this transitional phase, modifications of the products to delete any non-financial reference (e.g. change of denomination) only requires an information by all means to investors.

Moreover, AMF is currently working on an "intermediate" form of communication (e.g. standard phrases in the KIID). An update of this policy in this respect should be published soon.

2. MINIMUM STANDARDS TO BE ABLE TO PRESENT NON-FINANCIAL CHARACTERISTICS AS A KEY ASPECT OF PRODUCT COMMUNICATION

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 non-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 the management of collective investment products.

Although this is applicable to all collective investment products mentioning consideration of non-financial characteristics, the need to have information proportionate to the effective consideration of non-financial criteria is especially significant for products making these characteristics a **key aspect of communication**. Regarding this, in this first significant policy revision, the AMF specifies the minimum standards to be met by such products.

Presentation of non-financial characteristics 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 **very brief and very proportionate** mention.

On the contrary, 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.

¹⁰ As mentioned at article L. 214-2-2 of the Monetary and Financial Code

¹¹ This sentence ensure that after this date, the legal documentation of the product mention any significant engagement of the product.

¹² Article [L. 533-22-2](#) of the Monetary and Financial Code for French asset management companies and Article [411-126](#) for UCITS distributors ("*accurate, clear and non-misleading*" for the latter, applicable by reference to Article 411-132).

This concept applies without distinction to the various non-financial characteristics that can be emphasised in investment management: SRI, ESG integration, responsible, sustainable, green, ethical, social, impact, low-carbon (non-exhaustive list of terms given as an example).

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 engaging approach**, as defined below.

Position 2:

Only collective investment products which comply with the following characteristics can¹³ make non-financial characteristics a key aspect of communication:

- a) the approach adopted is **engaging** in that it provides in the regulatory documents for measurable objectives concerning consideration of non-financial criteria;
- b) the consideration of non-financial criteria must have a **significant** impact on the objectives thus defined. This point is determined as follows:
 - i) "Rating upgrade" approaches:¹⁴ 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:¹⁵ reduction of the investment universe by at least 20%.
 - iii) "Other approaches" (including the combination of aforementioned approaches): the AMC must be able to demonstrate to the AMF in what way its approach is significant.

When the approach refers to the investment universe, this approach 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.¹⁶ For this purpose, 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.

- c) The non-financial analysis or non-financial rating performed 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. Regarding this, AMCs must make sure that the proportion of the fund's net assets which is not analysed remains insignificant.

The quantified standards mentioned in points b)i), b)ii) 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.¹⁷

¹³ These collective investment products are nevertheless not obliged to make consideration of non-financial criteria in their investment policy a key aspect of their reporting.

¹⁴ 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.

¹⁵ 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.

¹⁶ For example, combining with a "Europe" fund 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.

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

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**.

This position calls for several clarifications.

➤ "Rating upgrade" and "selectivity" approaches

In the current state of the market, these approaches are those most commonly used by fund managers in the Paris marketplace. These are also the two methods adopted by the [reference document](#) for the French SRI Label. In this framework, 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 [reference document](#) for the label¹⁸ in order to ensure the clarity and credibility of the approaches adopted.

➤ "Other approaches" mentioned in point b)

The point b)iii) of the aforementioned position applies to approaches which might not be "selectivity" or "rating 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 Association (ICMA). The significance may, for example, be assessed based on the requirement of 75% of the assets required by the [reference document](#) for the Greenfin label;
- Collective investment schemes wanting to make communication regarding their impact on one or more non-financial indicators a key aspect of their communication. This is the case, for example, of *best-in-progress* approaches in real estate funds aiming to reduce the energy consumption of their portfolio;
- Equity funds may promote their contribution the reduction of greenhouse gas a key aspect of their communication when they commit (i) to a significant carbon footprint reduction over a time horizon (e.g. 5% per year) and (ii) a minimum share of their portfolio invested in important greenhouse gas-producing sectors subject to those transitions efforts;
- Collective investment scheme may make energy transition a key aspect of their communication when they plan to invest a significant share of their portfolio in issuers with a majority of their turnover in activities considered as favourable to this transition (and in ensuring that the portfolio is exempt of issuers having activities that would significantly harm this objective)

This illustrations section, which is non-exhaustive, could undergo regular updates to allow greater predictability and clarity of the AMF's expectations for market participants.

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

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

This distinction made between funds making the "SRI" aspect a key part of their non-financial investment policy and communication, and those practising ESG integration, i.e. making allowance for the E, S and G factors in a

¹⁸ Cf. 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.

manner which is not necessarily exhaustive or systematic, is designed first evolution to improve the clarity of approaches. This could be refined in the future.

➤ Illustration of non-significantly engaging approaches:

In a number of cases, the use of a filter excluding certain sectors of activity cannot be considered sufficient to make non-financial aspects a key part of product communication, because it cannot be a response to significantly engaging criteria. The following cases illustrate this situation:

- Funds which exclude certain controversial activities (e.g. tobacco, arms, pornography, etc.) are *a priori* excluded from the scope of significantly engaging approaches if no other non-financial criterion corresponding to the aforementioned characteristics (Position No. 2) is selected for management of the collective investment product;
- The fact of complying with the obligation introduced by France's ratification of the Ottawa Convention (1999) and Oslo Convention (2008) by emphasising the exclusion of issuers involved in controversial arms such as cluster munitions or anti-personnel mines¹⁹ is not considered sufficient to make non-financial aspects a key part of product communication. Thus, any possible communication on these aspects should be circumscribed to a mere mention in the prospectus, together with an indication specifying the binding nature of this exclusion for all French AMCs;
- The exclusion of fiscally non-cooperative countries. The [official ministerial decision of 12 February 2010](#) indicates in its last version dated January 2020, a list of thirteen states and territories including Panama, Oman and various islands in Pacifica and West Indies²⁰. On the face of things, these locations represent a not very material proportion of the customary investment universes of collective investment schemes;
- The exclusion of companies that have incurred international sanctions or that do not comply with international regulations regarding work organisation, notably on respect for freedom of association and collective bargaining rights, and the elimination of forced labour and child labour.

Likewise, the mere fact of mentioning an average ESG rating higher than that of its investment universe without any other information relating to the extent of the improvement in that rating is not sufficient to make the consideration of non-financial characteristics a key aspect of communication.

3. INVESTOR INFORMATION ON CONSIDERATION OF NON-FINANCIAL CRITERIA

3.1. Publication of information apart from regulatory and marketing documentation

Given the diversity of the non-financial strategies and themes observed during its supervisory assignments, the AMF stresses the need to describe precisely 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 product, in line with the aspects discussed above, the AMF issues two recommendations²¹ regarding these collective investment products:

¹⁹ Act 2010-819 of 20 July 2010 with a view to the elimination of cluster munitions: In France, it "is [...] prohibited [...] to assist, encourage or induce anyone to become involved in one [of these] prohibited activities". Moreover, "any deliberate financial assistance, whether direct or indirect, for the production or trade of cluster munitions would be considered assistance, encouragement or inducement falling under criminal law".

²⁰ Full list being: Anguilla, Bahamas, British Virgin Islands, Panama, Seychelles, Vanuatu, Fiji, Guam, American Virgin Islands, Oman, American Samoa, Samoa and Trinidad and Tobago.

²¹ In line with the recommendations already expressed by the AMF in its Position-Recommendation DOC-2011-24 for SRI funds.

Recommendation 1 applicable to collective investment products making non-financial characteristics a key aspect of communication

The AMF recommends those collective investment schemes to :

- 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 using the SRI indication and marketed as such, it is recommended that they obtain the SRI label.

3.2. Regulatory documents for collective investment products involving a non-financial aspect

This section deals with the drafting of regulatory documents for collective investment products making 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 scheme may be very different from one asset management company to another. To enable investors to compare the strategies with one another, the regulatory documents for these collective investment products 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 schemes:²²

Recommendation 2 applicable to collective investment products making non-financial characteristics a key aspect of communication

The AMF recommends that the regulatory documents for collective investment schemes making 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) indications regarding the selection and management methods used.

It is recommended that all funds implementing strategies with a non-financial focus via significantly engaging approaches should 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 reports, Transparency Code, etc.) presenting the details of the non-financial analysis. These references will aim solely to specify the methodological approach adopted by means of details that it would be difficult to present in the regulatory documentation of the collective investment scheme (exhaustive list of non-financial criteria, list of data providers, details of carbon footprint calculation, etc.).

This information is to be presented in the KIIDs and/or prospectuses of collective investment schemes (or "PRIIPS KIDs" or information prospectus where applicable) and is summarised below before being described in detail later. Information to be presented in the prospectus may nevertheless appear in the KIID in order to contribute to suitable information for the 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

²² These recommendations were contained in Position-Recommendations DOC-2011-05 ("A Guide to regulatory documents governing collective investment undertakings") and DOC-2011-24 ("A Guide to drafting collective investment marketing materials and distributing collective investments").

Description of the process of stock picking and sequencing in relation to the financial strategy	X (concise description)	X (detailed description)
Examples of non-financial criteria	X (a few examples)	X
Warning on the limits of the approach adopted (see below)	X	X
Presentation of the investment universe based on which non-financial analysis is performed		X
Minimum measurable objective (e.g. at least 20% for selectivity approaches)		X
Minimum rate of non-financial analysis (on at least 90%)		X

3.2.1. Investment objective

In accordance with 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 allowing for the three pillars E, S and G 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 product it may indicate in its management objective that the portfolio will be "*managed in accordance with 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*".

3.2.2. Investment policy

In line with the aforementioned provisions concerning the materiality for the investment policy of allowing for one or more non-financial characteristics, the AMF requires a proportionate and balanced presentation of this (these) characteristic(s) in the regulatory documentation of the collective investment product:

Recommendation 3 applicable to collective investment products making non-financial characteristics a key aspect of communication

In the KIID, the AMF recommends that a description of the non-financial strategy be given via a presentation of:

- the type of approach(es) used (e.g. best-in-class,²³ best-in-universe,²⁴ best-effort,²⁵ thematic, binding and significant 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 the approach can lead to the selection of certain sectors or not;
- 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 important non-financial criteria analysed (e.g. two or three examples).

²³ For example, [Novethic defines this approach](#) as: "a type of **ESG selection** consisting of giving priority to the companies best rated from a **non-financial** viewpoint within their sector of activity, without favouring or excluding one sector relative to the stock market index used as a basis for starting".

²⁴ For example, [Novethic defines this approach](#) as: "a type of **ESG selection** consisting of giving priority to the issuers best rated from a **non-financial** viewpoint irrespective of their **sector of activity**, and accepting sector biases, because the sectors which are considered more virtuous on the whole will be more heavily represented."

²⁵ 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.**"

In general, the AMF recommends that in its communication a collective investment scheme should not use expressions having an environmental, social or governance meaning inappropriate for the investment policy implemented via the collective investment product. For example, when an approach takes several criteria into consideration without placing one significantly above the others, the AMF recommends not announcing specific objectives for a single criterion (e.g. best-in-universe SRI approach making equally weighted consideration for the E, S and G criteria and announcing solely or primarily a contribution to the mitigation of global warming).

Position 3 applicable to collective investment products making non-financial characteristics 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 approaches taking various non-financial criteria into consideration (e.g. different criteria, analyses, weightings or measurable objectives);
- For funds using various approaches taking non-financial criteria into consideration via several investment pockets: Potential inconsistency regarding 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 explaining 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) undergoing discussion.

Recommendation 4: Specificity 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 inserting in the KIID 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 stance 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 investment products making non-financial characteristics a key aspect of communication

In order to assess the significantly engaging 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 No. 2;

- The portfolio's minimum rate of non-financial analysis.

Moreover, a presentation of the investment universe based on which non-financial analysis is performed, if it is not produced in the KIID, and when the AMC uses such a metric to assess the significance of the approach employed, should in any case be produced in the **prospectus** in order to report on the effective reduction in the initial universe or the significant improvement in the portfolio's non-financial rating relative to said universe. This paragraph does not apply to approaches **not** using a comparison with their investment universe as part of their consideration of non-financial criteria.

Recommendation 5 applicable to collective investment products making non-financial characteristics 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 relative 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 pertinent when the approach adopted implies using 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:

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

3.3. Marketing documents for funds involving a non-financial aspect

The marketing in France of units or shares in UCITS or AIFs is defined²⁶ as "*their presentation by various channels (advertising, direct marketing, advisory services, etc.) in order to induce 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, that it sends to retail or professional clients, or that could possibly reach such clients, meets the requirements for "clear, accurate and non-misleading information", regardless of the chosen means of communication, notably including social media*".²⁷

The AMF has observed practices of collective investment schemes, 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 non-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 non-financial criteria

For clear, accurate and non-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 collective investment management. It thus reiterates one of the previous recommendations concerning the accessibility of non-financial reporting by extending it to all collective investment products having non-financial characteristics implemented in a significantly engaging manner.

Recommendation 7 applicable to collective investment products making non-financial characteristics a key aspect of communication

The AMF recommends that non-financial reporting (whether incorporated in conventional financial reporting or not) 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 players to revise the communications of collective investment schemes employing **non-engaging** 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:

²⁶ AMF Position – DOC-2014-04 - Guide to UCITS, AIF and other investment fund marketing regimes in France.

²⁷ AMF Position-Recommendation DOC-2011-24 - A Guide to drafting collective investment marketing materials and distributing collective investments

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

Moreover, when asset management companies and distributors of collective investment products choose to have non-financial factors compared 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 comparison of the fund with those indicators on a long-term basis.

When the AMC or the distributor of collective investment products wants to communicate concerning the contribution of non-financial aspects to the financial performance of a collective investment, 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 recommends that asset management companies and distributors of collective investment products should not state a quantified non-financial objective in a promotional document without including a warning 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.

3.4. Specific case of products referring to « ISR »

In line with the AMF's increased requirements in its 2015 and 2017 reports and in order to ensure clear, accurate and non-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 collective investment scheme using the term "ISR"

Position n°6 :

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

4. MARKETING OF FOREIGN UCITS IN FRANCE

On several occasions, the AMF has drawn the attention of AMCs marketing foreign funds in France to, among other things, inconsistencies between their name, their investment objective, the presentation of non-financial objectives and the constraints appearing in the legal documents. In some cases, in order to prevent risks of misunderstanding of the products in France, the wording of the promotional documents of these UCITS has been modified at the request of the AMF, 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:

- 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;
- 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;
- 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 non-financial characteristics a key aspect of communication

Without prejudice to the provisions applicable to the drafting of marketing documents, UCITS incorporated under foreign law which present non-financial characteristics as a key aspect of communication but which do not comply with Positions 1 to 4 and 6 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, the marketing materials of such UCITS must include the following indication in very apparent characters: "*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 investment policy*". 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 indication: "*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 investment policy*".

5. SPECIFIC CASE OF CERTAIN FEEDER COLLECTIVE INVESTMENT SCHEMES

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 without the approaches implemented being significantly engaging (Positions 1 and 2) 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 substrate of the information appearing in the master fund's regulatory documentation which would comply with these various positions, the AMF states the following position.

Position 8: French feeder collective investment scheme of master UCITS incorporated under foreign law making non-financial characteristics a key aspect of 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 making consideration of non-financial criteria a key aspect of the product;

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

- i. The UCITS's KIID provides for the following indication in very conspicuous characters: *"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 investment policy"*;
- ii. Position 7 is applicable to the marketing of these funds in France.

6. SUMMARY

The following table summarises the various applicable policy measures.

Type	Positions	Recommendations
Principle of proportion	1	
significantly engaging approach approaches	2	
Information in the KIID	3 (main methodological limits)	2 (description of non-financial strategy) 3 (description of non-financial strategy) 4 (Green/Social/Sustainability bonds)
Information in the marketing documents	5 (consistency of marketing docs/ regulatory docs) 6 (use of the "ISR" term) 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 non-financial strategy) 3 (description of 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)