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ADEME recommendations for an in-depth review of SFDR

Following the EU consultation on the review of SFDR, December 2023

# **Context**

The SFDR Regulation has been designed as an extra-financial disclosure system for financial entities and products. Coming into force in March 2021, it is designed to contribute to the EU's sustainable finance policy objective to support the transition to a sustainable, climate-neutral economy. It is then expected to be capable of attracting private investment to achieve this objective.

However, on 5 December 2022, the European Commission launched a full evaluation of SFDR, as the text quickly became the subject of many criticisms. As part of this evaluation, on 14 September the European Commission launched a public consultation to provide a general assessment of the application of SFDR. However, the real challenge lies in the Commission's proposals for modifications, which include the possibility of modifying the disclosure requirements of SFDR and, above all, the introduction of product categories based on minimum criteria.

Being actively involved in the design and redesign of financial products and labels[[1]](#footnote-1), particularly regarding the criteria relating to shareholder engagement and investment for the transition, since we have co-developed with the CDP, the ACT methodology, an internationally recognized tool to evaluate the consistency of a transition plan towards the Paris Agreement (and used, for example, to evaluate transition plan in case of Say on climate[[2]](#footnote-2) or to build the recent Banque de France Climate indicator[[3]](#footnote-3)), **ADEME** wanted to provide, in this response, its expertise and support, especially for the creation of new product categories in a dedicated labelling scheme under SFDR.

Consequently, this note is mainly focusing on the disclosure requirements at financial products level and the forward-looking elements as **we strongly believe that this regulation needs to be urgently reviewed in depth**, starting with its foundations. We expose our mains recommendations and detail our proposal for a labelling scheme based on accessible data, clear contribution objectives (without excessive promises) and relevant minimum criteria, which would raise awareness of market participants on sustainability issues, strengthen the financial sector's potential to contribute to the EU's sustainability objectives and avoid greenwashing through appropriate communication.

Also, even if our note does not specifically address Disclosure at entity level, we see a certain interest in grouping this obligation under a single framework and, from this point of view, the CSRD would seem more appropriate.

# **Major recommendations for an in-depth review of SFDR**

## **Considering the mechanisms through which impact could be transmitted from the financial system to the real economy as a starting point for revising and redesigning the sustainable financial disclosure regulation**

The lack of consideration, in this regulation, of financial strategies that are scientifically recognized as having the potential, on a large scale, to contribute[[4]](#footnote-4) to the EU's sustainability objectives (as well as the ways to maximize them) does not provide :

* A clear and necessary understanding by financial market participants of "impacts, positive or negative, that investments may have on the environment and society" (i.e. the “inside-out" part of double materiality), nor the diffusion of this knowledge to end investors.
* An optimal contribution from financial products currently identified as sustainable, notably due to the absence of shareholder engagement as a key strategy or the lack of a harmonized price signal, both necessary to attempt to create indirect pressure on issuers.
* An ambitious redesign of financial product, which would then remain in a business as usual, unable to meet either the expectations of savers (concerned about the impact of their investment[[5]](#footnote-5)) nor the urgency of climate change.

We recommend, for an in-depth review of this regulation**, to embed the referential in a logic of contribution** towards sustainable or transition objective by starting to identify the financial strategies with potential to contribute, on large scale, to the EU's sustainability objectives and how to maximize them*.* It will then be a matter of creating categories of products reflecting those strategies while adapting the disclosure requirements in line with the expected criteria for those strategies.

## **Having a harmonized, science-based and unambiguous definition of environmentally sustainable investment, with the EU taxonomy as unique reference**

The large possibility of interpretation offered by SFDR Art. 2 (17) is currently the source of many flaws in the SFDR regulation, notably by:

* Hindering the creation of a credible and efficient sustainable price signal by encouraging vague and heterogeneous definitions of sustainable investment, which consequently reduces the capacity of finance to influence companies, even indirectly.
* Reducing investors' understanding of sustainability concepts and thus reinforcing retail investors' mistrust of finance, and more particularly on the capacity of the financial products to truly address these issues.
* Introducing, as well as a technical difficulty, a potential legal risk since the responsibility for proving compliance of the DNSH (or the contribution to an objective) of a sustainable investment is left to the interpretation of the financial institution.

We recommend only retaining the definition of environmentally sustainable investment led in the EU Taxonomy which, although perfectible, is ideally suited to fill these gaps as it is objective, shared, science-based, relying on available data and easy to understand by end investors.

*This recommendation also implies* :

1. To delete the definition of a sustainable investment led in SFDR art 2 (17)
2. To Remove the requirement of 100% sustainable investments to qualify a financial product contributing to an environmental sustainability objective, knowing that a single reference to taxonomy alignment make it impossible to achieve, except in exceptional cases (such as use of proceeds bonds funds). Consequently, we recommend assessing a financial product in terms of its contribution to a sustainability environmental objective which should be demonstrated, but not limited to, by a minimum percentage of taxonomy alignment required at product level.
3. To define (and simplify) the DNSH principle, at financial product level, by common normative exclusions (environmental, governance and social) for issuers (e.g. by excluding issuers whose turnover is more than x% exposed to fossil fuels).
4. Do not define, despite its importance, a socially sustainable investment objective without a regulatory framework or precise and science-based criteria on what is expected of a socially sustainable activity or issuer, to avoid the risk of significant and counterproductive socialwashing.
5. To propose a system of equivalence with other local taxonomies for activities covered by the EU taxonomy, only for foreign investment.

However, we recognize the many limitations of the current EU taxonomy, including the absence of criteria for socially responsible activities (or issuer), the limited number of activities covered (especially to determine neutral, brown activities or activities related to the distribution of taxonomy aligned products or services) and the very limited alignment of today's economy with this demanding standard. Anyway, these limitations should not distract from the need for a unified definition based on a credible, and therefore necessarily demanding standard. **On the contrary, these limitations should highlight the critical need to :**

* + Improve end-investors' understanding of taxonomy alignment and its consequences, especially on the % alignment expected of financial products.
  + Rapidly extend the EU taxonomy to other activities and social objectives, to ensure a fully operational framework.

## **Highlighting and strengthening the role of shareholder engagement as a key strategy for achieving the EU's sustainable objectives, notably through a unified definition of investment for transition**

**Shareholder engagement** has been identified by the scientific community as a strategy with significant potential (which could be coordinated) but is currently largely under-exploited and barely mentioned in this disclosure framework. Although currently used at its strict minimum, it could be significantly strengthened by increasing the transparency of voting and engagement actions and by setting ambitious but necessary minimum criteria, such as formalizing rigorous escalation process in the engagement policy.

Moreover, shareholder engagement has a lot of strengths for becoming a key element of investment in transition, which requires, due to the dynamism of the transition and the risks associated with its implementation, the possibility to monitor and challenge it, which is possible through shareholder engagement.

Alongside the engagement strategy, **investment for transition** has not been included nor considered in this reporting, which, as the EC points out in its recommendations of June 2023[[6]](#footnote-6), is a major shortcoming that needs to be quickly addressed.

At the same time, the forthcoming publication of **corporate transition plans** as part of the CSRD and the possibility to evaluate them using internationally recognized and reliable methodologies[[7]](#footnote-7) provide a great opportunity for finance and, more specifically, for shareholder engagement, to address corporate transition.

And since transition is by nature dynamic, it is not simply a question of assessing an investee's transition plan at one moment but also ensuring that the transition plan is well implemented and consistent with Paris agreements while taking action if it is not, which could be made possible by the combined action of :

* A periodic assessment of the issuer's transition plans and ;
* Active shareholder engagement through an escalation strategy including dialogue, voting rights, target setting, the submission of resolutions, voting against management, threats of public communication and, in last resort, divestment.

Finally, we also note that funds have already taken up this theme and, without a clearly defined definition, have come up with their own, various ways[[8]](#footnote-8) of conceiving and defining transition for an investment. Consequently, a clear, regulatory, and harmonized definition of an investment in transition would prevent to reproduce the same mistakes made for the definition of a sustainable investment, by avoiding any interpretation.

Consequently, **we recommend** **adopting a harmonized definition of investment for transition as the combined action of (1) an investment in companies in transition (i.e. with at minimum a transition plan in CSRD format and a climate target validated by an external party** based on a robust methodology using last reference scenarios (e.g. SBTi) **(2) an evaluation of the transition plan's consistency with the Paris agreements** according to a robust methodology (e.g. ACT or CA100+) **and (3) an active shareholder engagement** **including a robust and formalized escalation process (**specifying the deadlines corresponding to each formalized demand, and the actions taken when demands are not met, including public communication and, in last resort, divestment) **to monitor and challenge the issuer on the consistency of its transition plan with Paris agreement objectives**

## **Replacing the actual disclosure templates[[9]](#footnote-9), at product level, by a common base of key indicators representative of the product categories strategies**

The templates proposed for the disclosure of financial products (art 8 and 9) are too subjective and too identical to be truly informative and useful to the end investor. Consequently, they do not provide, in their current form, a quick understanding of the main characteristics of a financial product nor an explanation on how the extra-financial objective is pursued, not even a way to compare them objectively (except for taxonomy alignment).

Moreover, if minimum criteria are introduced, as we are strongly requesting, it will be necessary to replace the product disclosure requirements in line with these minimum criteria to ensure that they could be easily identified, controlled and compared.

|  |
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| Accordingly, **we recommend a set of key indicators to disclose, common to all financial products mentioning extra-financial characteristics in their communications, designed to be objective, comparable, harmonized and representative of the expected requirements for each product category[[10]](#footnote-10)** :   1. % of alignment of the financial products to the EU taxonomy (CA, CapEx and Opex), as it is already disclosed in the actual templates 2. % by which the initial investment universe has been reduced, as well as the exclusion policy followed (normative and/or in relation to ESG rating) and the methodology used 3. % of issuers with a transition plan in CSRD format, specifying, for these issuers:    * % with a climate target validated by an external party based on a robust methodology using last reference scenarios (e.g. SBTi),    * % with a significant proportion of their turnover deriving from high impact climate sector (more than 30%), as described in Delegated Regulation (EU) 2022/1288    * % with an evaluation of the consistency of their transition plan with the Paris agreements, specifying the methodology[[11]](#footnote-11) used and distinguishing the evaluation of high climate impact companies from others 4. The stewardship policy must specify whether an escalation strategy[[12]](#footnote-12) has been formalized, how it contributes to funds objectives and, if so, some examples of stewardship successes and failures as well as the actions taken accordingly 5. The voting policy must specify the % of shareholders' meetings at which voting rights have been exercised and, in case of Say on Climate, a brief explanation of the related vote. |

## **Introducing new product categories that meet both the need for the financial sector to contribute more effectively to the EU sustainability objectives and the need to raise awareness among market participants on their contribution (and its limits)**

Although this was not the European Commission's intention, the SFDR regulation was quickly transformed into a marketing tool for financial institutions, turning articles 8 and 9 into labels which, combined with ambiguous definitions and objectives and the absence of minimum criteria, creates a major risk of greenwashing and loss of credibility.

However, it also underlines the urgent need of market participants for such a classification system which, **if considered in a logic of contribution towards EU sustainable objective and associated with a specific communication**, could be extremely useful to :

* Coordinate investment around common clearly defined objectives and available data, based on the European regulatory framework such as the CSRD and the EU Taxonomy.
* Gradually encourage financial institution to adopt new and more ambitious practices while redesigning financial product accordingly.
* Improve end investors' understanding of the extra-financial objectives pursued by investment funds and the strategies used to achieve them (and their limits).
* Guide end investors in their choice of financial products *which should also imply to create a strong link between the MIFID categories of preferences and SFDR product categories characteristics.*
* Ensure, through minimum criteria to comply with, a minimum level of guarantee to end investors on the fund's contribution to its objective, without excessive promises.
* Provide a basis for national and European labels.

Our recommendations for the design of categories of financial products capable to address the flaws identified in this regulation, and covering all the recommendations made so far, are presented in detail in part II of this note, which is dedicated to this topic.

Finally, we would like to stress that the development of such a classification system should not distract from the need for an ambitious and recognized European financial label. In this respect, we strongly recommend **pursuing the development of the EU ecolabel for financial products**, currently on standby, which could be perfectly in line with this logic of contribution, as it is required by its own regulation[[13]](#footnote-13). In fact, its latest framework already integrates the importance of active shareholder engagement for monitoring issuer transition plans, as well as alignment to the taxonomy to define an environmentally sustainable investment.

## **Strengthening the link between the sustainability preference categories set in MIFID/IDD and the characteristics of product categories defined in SFDR**

The link between these two regulations is poorly established today, and when it is, it introduces confusion to end investors, by mentioning, for example, the two definitions of sustainable investment or the PAIs, which are mainly entity indicators with little interest if defined at portfolio level (in particular to understand its composition) and not necessarily disclosed at financial products level.

Furthermore, without precise criteria and objectives for assessing product categories and their strategies at this stage, it seems difficult to transpose the characteristics of financial products into sustainability preferences.

By contrast, the creation of product categories with clearly defined objectives alongside minimum criteria would make it easier to link sustainability preferences to the characteristics expected of these products, improving at the same time savers' understanding of the objectives pursued and the related strategies.

We recommend facilitating the distribution of financial products by creating, after defining new product categories with precise characteristics, a strong link between these characteristics (related to exclusions, taxonomy alignment, transition) and sustainability preferences.

# **Creating a labeling system under SFDR, in a logic of contribution and relying on available data**

## **Rationale behind our proposal, step by step**

**Step 1 – Identify**

**on a scientific basis, the investment strategies best suited to contribute, on a large scale, to the EU's sustainability objectives**

**Step 2 – Build**

**categories of financial products reflecting these strategies and their objectives (mutually exclusive given their specificities)**

**Step 5 – Communicate**

**to facilitate the distribution of financial product and improve market participants' knowledge while reducing the risk of greenwashing**

**Step 3 – Coordinate**

**categories’ strategies around common & harmonized concepts based on other EU regulations and accessible data to maximize their contribution potential**

**Step 4 – Validate**

**for each category of product, the minimum contribution of the financial products towards the strategies and objectives followed**

**(A) Financial products based on a price signal strategy**with the objective of indirectly contributing to the improvement of financing conditions for environmentally or socially sustainable activities while avoiding investing in harmful activities.

**(B) Financial products based on active shareholder engagement strategy** with the objective of contributing directly to improve the sustainability of assets through shareholder engagement

The two categories should remain mutually exclusive due to the differences between the strategies used (particularly regarding exclusions criteria)

**Defining clear, proportionate, exclusive communication adapted to each category of financial products following a sustainable or transition objective**, faithfully reflecting the objectives pursued by these products, and limited to financial products that meet the minimum eligibility criteria.

Ensuring a strong link between the distribution of financial products (MIFID, IDD) and the funds characteristics disclosed in SFDR.

Restricting the use of the term impact only if the product can demonstrate its additionality and measure it (while specifying the proportion of the fund concerned by such investment).

**Defining minimum criteria adapted to each category of financial products** **following a sustainable or transition objective** to (1) ensure a minimum and effective contribution of the funds, (2) distinguish the best products and (3) avoid greenwashing.

**Defining a common base of disclosure** with key indicators, referring to product categories characteristics (minimum criteria), for financial products promoting extra-financial criteria in their communication

Introducing, considering the challenge induced by the maximization of those strategies, a third category with a focus on exclusions.

Focusing, among the investment strategies scientifically recognized for their potential of contribution**1**, on those that are currently available, practiced and can be easily scaled up:

* **A price signal strategy** reflected by capital allocation (investment and exclusions) and;
* **An active shareholder engagement strategy**

while encouraging the development of strategies that are still under-represented today but have significant potential (providing flexible capital, etc.) by introducing a definition of impact finance.

Developing common definitions, and objectives, based on accessible data, to facilitate the understanding of sustainability concepts while ensuring the necessary coordination of market participants.

**(A) Taxonomy oriented financial products** categories **coordinated around a single, science-based price signal : *the* *aligning with the EU taxonomy***

**(B) Transition oriented financial products** categories based on active shareholder engagement strategy **coordinated around the evaluation of the consistency of issuers’ transition plans (CSRD) with the Paris Agreements**

## **Synthetic view of the labelling scheme**

|  |  |  |
| --- | --- | --- |
| **Common base of Disclosure (key indicators) applicable *to all financial products that refer to extra-financial considerations in their communications*** | | |
| 1. **% Taxonomy alignment** (Turnover, CapEx and OpEx) 2. **% Universe investment reduction specifying normative exclusions from best-in-class approaches** 3. **% Issuers with a transition plan** (CSRD compatible) including :  * **%** with a **SBT validated** by an external party based on robust methodology and latest scenarios (e.g. SBTi) | * **%** with a significant **exposure to high impact climate sector**[[14]](#footnote-14) (deriving more than 30% of turnover from) * % with **an evaluation of the consistency of their transition plan with the Paris agreements**, specifying % for issuer with a significant exposure to high impact climate sector | 1. **Stewardship policy :**  * **Escalation plan**[[15]](#footnote-15) formalized and how it contributes to the fund’s objective. * Details on target set, main successes, and failures of engagement (including action taken)  1. **Voting policy** : % of issuers shareholders’ meeting at which voting right have been exercised and how |

**Transitioning oriented financial products**

***Objective : Contributing to accelerate transition by monitoring and challenging issuers’ transition through active engagement***

**Taxonomy oriented financial products**

***Objective : Contributing, in a global price signal strategy, to indirectly improve financial conditions of environmentally/ socially sustainable activities***

*The fund aims to avoid investing in worst ESG issuers*

**Active shareholder engagement**

The funds engage all issuers significantly exposed to HICS by **setting target based on the evaluation of the transition plan** **and acting accordingly to escalation plan**

**Capital allocation**

**Min 70% AuM invested in issuers with a transition plan in CSRD format (including at least 50% issuers significantly exposed to high-impact climate activities), an externally validated climate target and an evaluation of the transition plan's consistency** with the Paris agreements

**Capital allocation**

**Investment universe reduced by at least 30% through normative exclusion or best in class ESG approach**

**ESG oriented**

**Key Strategies**

**Environmental Objective**

**IMPACT ALLEGATION**

*The concept of impact of a financial product should only be mentioned in the fund communication if the funds is capable to demonstrate its intentionality and, above all, its additionality in the observed impact, and of measuring it. If so, it should also mention the % of the funds dedicated to impact investment.*

**Capital allocation**

**Min 20% AuM EU Taxonomy aligned** (should be revised every 3 years)

**DEDICATED ALLEGATION**

*The fund aims to contributes to directly support and improve, through active engagement, the transition of issuers.*

**DEDICATED ALLEGATION**

*The fund aims to contributes to the development of environmentally sustainable activities*

**Exclusions**

**Environmental, social** **and governance** exclusion (see the lists in annex 1, 2 and 3)

**Transition Objective**

**Mutually exclusive**

## **Characteristics and minimum criteria for each products category**

### **Taxonomy oriented financial products category: *Clear and unique environmental investment signal supported by EU taxonomy and common exclusions.***

**Simple and understandable promises** in line with investors' expectations: (1) to invest primarily in sustainable activities (demonstrated by a rate of alignment with the EU Taxonomy, at portfolio level, significantly above the market) and (2) to avoid investing in harmful activities (ensured by a minimum of environmental and social exclusion).

**A clear contribution to the objective :** To attempt to contribute to the collective creation of a credible environmental price signal (capable to **improve financing conditions for issuers strongly aligned and providing an incentive for the other**) - No promise of impact at this stage, just a contribution to a collective effort, without guarantee.

**A unique and dedicated communication :** Financial products in this category should be the only ones able to mention a contribution to an environmentally sustainable objective. For **Products name**, the term **"environmentally sustainable”** or **“climate”** should be reserved to this product category

**Mandatory minimum criteria** for each strategy including key strategies (colorized) to ensure a minimum contribution for these products (see table below) :

|  |  |
| --- | --- |
| **Capital allocation** | **At least 20% of the total portfolio** value of the assets under management (AuM) shall be invested in environmentally sustainable economic activities. This percentage should be dynamic and revised at least every 3 years. |
| Shareholder engagement | A voting policy should have been set according to this objective. |
| **Environnemental exclusions** | **See list in annex 1** : The list is inspired by the work carried out on the EU Ecolabel and, above all, the French Greenfin label, to ensure that the criteria are applicable. With a focus on energy sector. |
| **Social exclusions** | **See list in annex 2** : The list is inspired by the French SRI label |
| **Governance Exclusions** | **See list in annex 3** : The list is inspired by the French SRI label |

### **Transition oriented financial products category : *Active shareholder engagement to assess, monitor and ensure the orderly transition of an issuer by tracking the implementation and consistency of its transition plan (CSRD) with the Paris agreements***

**Simple and understandable promises** but on new concepts for the end investor, both on transition concept (a transition plan) and shareholder engagement

The financial products will invest primarily in companies in transition (i.e. with a transition plan in CSRD format) while evaluating the consistency of the plan), prioritizing sectors with high impact on climate

**A clear contribution to the objective** : **Ensuring that issuers’ transition is consistent with the Paris agreements** and, if not, challenging them on objective targets through active shareholder engagement (and an escalation plan to ensure that action will be taken in a reasonable timeframe, including public communication and, in last resort, divestment). No promises of impact at this stage but promises of action to monitor the transition of issuers in the portfolio.

**A unique and dedicated communication:** Financial products in this category should be the only ones able to mention a **contribution to a transition objective** (see above). For **Product names**, the terms **"transition"** and **"engagement"** should be reserved to this category of products.

**Mandatory minimum criteria** for each strategy including key strategies (colorized) to ensure a minimum contribution for these products (see table below) :

|  |  |
| --- | --- |
| **Capital allocation** | **70% AuM,** except cash, **must be invested in issuers with**   * **a transition plan in CSRD** format, including at least 50% issuers significantly exposed[[16]](#footnote-16) to high-impact climate activities[[17]](#footnote-17)), * a climate target validated by an external party based on a robust methodology using last reference scenarios (e.g. SBTi) * an evaluation of the transition plan's consistency with the Paris agreements according to a robust methodology (e.g. ACT or CA100+ methodology[[18]](#footnote-18), *only mandatory for issuers significantly exposed to high impact climate sector* |
| **Shareholder engagement** | **100% of issuer significantly exposed to high impact climate sector must be engaged according to an Escalation Plan including :**   * **Dialogue** must be engaged on **clear target identified by the evaluation of the transition plan** and related to CSRD transition plan KPi * **Reasonable timeline must be defined for short-, mid- and long-term KPI to track target achievement** (Max 5 years for a long-term engagement target). * **Action** must be taken if the intermediate KPI or engagement target are not reach, according to escalation plan’s timeline including (resolution filling, public communication and, in last resort, divestment)   **Voting right** : More than 90% of voting right must be exercise at Issuers shareholders' meetings and, in case of Say on Climate, a brief explanation of the related vote |
| Environnemental exclusions | **Only companies developing** **new projects** for the exploration, extraction, transport (of coal, oil or gas pipelines) and refining of solid, liquid or gaseous fossil fuels, as well as new electricity generation capacity from solid, liquid or gaseous fossil fuels, **are excluded** |
| Social exclusions | See list in annex 2 |
| Governance exclusions | See list in annex 3 |

### **ESG oriented financial products category**

**Rationale**: Given the high level of ambition proposed for the first two categories, both for the taxonomy-oriented category (which, with the taxonomy, greatly tightens the assessment of a sustainable investment and drastically reduces the investment universe) and for the transition-oriented category, which proposes a higher level of ambition for shareholder engagement (with a solid escalation strategy) as well as for the assessment of issuers' transition plans.

Consequently, we recommend that, as a counterpart to the high level of ambition of the " contributive " categories and in order to give the market time to adapt to this new level of ambition, a third and less demanding category, closer to current practices but still capable of satisfying the expectations of certain savers focused in avoiding sustainability risks on their return than in making a more committed contribution.

**Simple and understandable promises** since the financial products should avoid investing in companies that are (1) the worst in their category according to an ESG or PAI rating and/or (2) via normative exclusions (exclusions from certain sectors/activities), which should lead to a reduction in the initial investment universe of 30%.

**No contribution to an EU sustainable objective**for this category since the strategy is essentially based on a simple materiality approach (integration of sustainability risks into portfolio management but no contribution for this product category).

**A dedicated communication :** Despite the fund can’t use the term “contribution” in his communication or name, it could mention in its communication “avoiding investing in” while precising what is avoided according to the exclusion policy (ESG exclusion or normative exclusions)

**Mandatory minimum criteria** for each strategy including key strategies (colorized) to ensure a minimum contribution for these products (see table below) :

|  |  |
| --- | --- |
| Capital allocation | The proportion of ESG-analyzed issuers in the fund's portfolio must always exceed 90%. |
| Shareholder Engagement |  |
| General exclusions | The investment universe must be reduced by at least 30% by eliminating the 30% worst companies, based on the ESG rating and/or normative exclusions applied by the fund. |
| Social exclusions | See list in annex 2 |
| Governance exclusions | See list in annex 3 |

## **Communication on the Impact of Financial product**

The logic of contribution, which we would like at the heart of the SFDR regulation, requires in most cases coordinated action of other investors, which greatly complicates the measurement of additionality at the financial product level on the observed impact. **Contribution is not a guarantee of impact, but a guarantee of minimum action taken to reach the objective pursued.**

It is therefore important to distinguish the contribution from the impact of a financial product, which requires evidence and measurement of its additionality to the impact observed, at fund level.

And even if it only involves a small number of financial products due to the very demanding definition of impact investing, the notion of the impact of an investment should not be ignored in this regulation, for several reasons:

* To regulate this type of claim actually used by financial products and currently mostly misleading[[19]](#footnote-19) which create a significant risk of greenwashing.
* To encourage these strategies in the future as well as the financial products using them.
* To distinguish the logic of contribution from impact at financial product level.

Without developing a dedicated category**, we recommend defining the impact of an investment** by demonstrating evidence of its intentionality, its additionality, and the measurement of this additionality in the observed impact**[[20]](#footnote-20). In this case, the notion of impact could be mentioned in the communication of a financial product, specifying the proportion of the portfolio concerned by impact investments.**

# **Annexes**

## **Annex 1 - List of Environmental exclusions related to energy sector** (inspired by the EU Ecolabel and the French Greenfin label) **for taxonomy-oriented products**

Companies developing **new projects** for the exploration, extraction, transport (of coal, oil or gas pipelines) and refining of solid, liquid or gaseous fossil fuels, as well as new electricity generation capacity from solid, liquid or gaseous fossil fuels, are excluded.

1. **Strict exclusions**: Financial products shall not contain equities nor bonds (except for EU green bonds standards) issued by companies that derive **more than 5% of their turnover** from the excluded activities listed below:

**Energy sector:**

* + Solid, liquid and gaseous fossil fuel exploration, extraction, refining and production of derivative products.  This includes unconventional sources such as hydraulic fracking, arctic drilling, oil sands and shale deposits.
  + The supply and use of solid, liquid and gaseous fossil fuels for fuel, energy generation in the form of electricity and/or heat, heating and cooling using these fuels,
  + Transportation, distribution and storage of solid, liquid fossil fuels.
  + All activities relating to the nuclear fuel cycle, including power generation.

Exception should be made for gaseous fossil fuel and nuclear if the activities comply with the criteria set in the EU taxonomy.

**Forestry:**

* + Forestry management for production of timber as well as the production of timber-derived products, where the economic operator cannot demonstrate the following:
    - That the timber is covered by valid FLEGT or CITES licences and/or is controlled by a due diligence system which provides the information set out in Regulation (EU) 995/2010[[21]](#footnote-21); and
    - That the forests are not located on land obtained from the conversion, fragmentation or unsustainable intensification of high-nature-value land, wetlands, peatlands, forests, or other areas of high-biodiversity value and/or high-carbon stock in or after 2008.

1. **Partial exclusion**: Financial products shall not contain equities nor bonds (except for EU green bonds standards) issued by companies that derive **more than 30% of their turnover** from the excluded activities listed below:

**Energy sector:**

* + Transport, distribution and storage of gaseous fossil fuels
  + Gaseous fossil fuel supply services
  + The production, transport and distribution/sale of equipment and services to companies in strictly excluded sectors (as defined above)

**Waste Management:**

* + Landfill without GHG capture
  + Incineration without energy recovery

## **Annex 2 - List of Social exclusions** (inspired by the French SRI label)

1. Any issuer involved in the production of **armaments or services or components specifically designed for controversial armaments** as described by the following international conventions:
   * + - Treaty on the Non-Proliferation of nuclear weapons (1970);
       - Convention on the Prohibition of Biological Weapons (1975);
       - Convention on the Prohibition of Chemical Weapons (1997);
       - Ottawa Convention on Anti-Personnel Mines (1999);
       - Oslo Convention on Cluster Munitions (2008);
2. Any issuer suspected of serious and/or repeated violations of one or more principles of the UN Global Compact
3. Any issuer deriving more than 5% of its revenue from the production or distribution of tobacco or tobacco-containing products.

## **Annex 3 - List of Governance exclusions** (Inspired by French SRI label)

1. Any issuer whose headquarters are domiciled in a country or territory included in the latest available version of the EU list of countries and territories that are uncooperative for tax purposes[[22]](#footnote-22)
2. Any issuer whose headquarters are domiciled in a country or territory on the Financial Action Task Force's (FATF) black or grey list[[23]](#footnote-23)

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Description générée automatiquementUne image contenant drapeau, symbole, logo, Bleu électrique

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*« This Work reflects only the views of ADEME. Other members of the Finance ClimAct Consortium are not responsible for any use that may be made of the information it contains. »*

Finance ClimAct contributes to the implementation of French and European policies for sustainable ﬁnance, in line with the European Green Deal and France’s National Low Carbon Strategy. It will develop the tools, methods and new knowledge to achieve this goal in the coming years by: (1) supporting investments in energy-eﬃcient and low-carbon industries, (2) taking into account the double materiality of climate change in ﬁnancial management and supervision and (3) integrating environmental objectives into retail investors’ decisions.

The project is coordinated by the French Agency for Ecological Transition, The Ministry for Ecological Transition, The Autorité des marchés ﬁnanciers, the Autorité de contrôle prudentiel et de résolution, 2° Investing Initiative, The Institute for Climate Economics, the Institut de la Finance Durable and RMI.

Finance ClimAct is an unprecedented pro- gramme which comprises a total budget of 18 million euros, 10 million of which are provided by the European Commission.

Duration: 2019-2024

1. ADEME participate in the development of labels such as the EU Ecolabel and, more recently, in the review of the standards for the French ISR label [↑](#footnote-ref-1)
2. See [Bilan SAY ON CLIMATE](https://finance-climact.fr/wp-content/uploads/2023/06/BilanSayonClimate-2023_FR-COV-ICA-SE-KL-TE-AL-EDF-VALL-16juin.pdf) by ADEME and the FIR [↑](#footnote-ref-2)
3. See the [Climate indicator](https://www.banque-france.fr/index.php/fr/espace-presse/communiques-bdf/la-banque-de-france-mettra-disposition-des-entreprises-son-indicateur-climat) by Banque de France [↑](#footnote-ref-3)
4. See [*Sustainable Finance and Transmission Mechanisms to the Real Economy*](https://www.smithschool.ox.ac.uk/sites/default/files/2022-04/Sustainable-Finance-and-Transmission-Mechanisms-to-the-Real-Economy.pdf) Ben Caldecott, Alex Clark, Elizabeth Harnett, Krister Koskelo, Christian Wilson & Felicia Liu [↑](#footnote-ref-4)
5. "75% of French people say that the impact of investments on the environment is an important issue", according to a survey carried out by OpnionWay for the AMF: [*Les français et les placements responsables*](https://www.amf-france.org/sites/institutionnel/files/private/2023-07/OpinionWay%20pour%20AMF_%20Les%20Fran%C3%A7ais%20et%20les%20placements%20responsables_juillet%202023.pdf) [↑](#footnote-ref-5)
6. [COMMISSION RECOMMENDATION (EU) 2023/1425](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32023H1425) of 27 June 2023 on facilitating finance for the transition to a sustainable economy. [↑](#footnote-ref-6)
7. ACT methodology and CA100+ methodology [↑](#footnote-ref-7)
8. As underlined in the Novethic’s report [« LA TRANSITION PAR LES FONDS DURABLES : MYTHES ET RÉALITÉS »](https://www.novethic.fr/fileadmin/user_upload/tx_ausynovethicetudes/pdf_complets/Novethic_novembre_2023_la_transition_par_les_fonds_durables_mythes_et_r%C3%A9alit%C3%A9s.pdf) [↑](#footnote-ref-8)
9. As proposed in the [COMMISSION DELEGATED REGULATION (EU) 2022/1288](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32022R1288) of 6 April 2022 [↑](#footnote-ref-9)
10. See part II of this note. [↑](#footnote-ref-10)
11. ACT or CA100+ methodologies should be strongly recommended [↑](#footnote-ref-11)
12. The escalation strategy must include and differentiate dialogue, setting of targets, reasonable timeline for action which should include public communication and, as last resort, divestment. [↑](#footnote-ref-12)
13. [REGULATION (EC) No  66/2010 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 25  November 2009 on the EU Ecolabel](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32010R0066) [↑](#footnote-ref-13)
14. High impact climate sector (HICS) as described in Delegated Regulation (EU) 2022/1288 [↑](#footnote-ref-14)
15. The escalation plan must include and differentiate dialogue, setting of targets, reasonable timeline for action which should include public communication and, as last resort, divestment. [↑](#footnote-ref-15)
16. Issuers with more than 30% turnover relying on High climate sector [↑](#footnote-ref-16)
17. As described in Delegated Regulation (EU) 2022/1288) [↑](#footnote-ref-17)
18. If another methodology is used, a robust and convincing explanation must be indicated [↑](#footnote-ref-18)
19. See 2Dii report : [Market review of environmental impact claims in Europe](https://2degrees-investing.org/resource/market-review-of-environmental-impact-claims-of-retail-investment-funds-in-europe/), 2023 [↑](#footnote-ref-19)
20. See 2Dii & ADEME [Guide on environmental impact claims for financial products](https://2degrees-investing.org/resource/guide-sur-les-allegations-dimpact-environnemental-des-produits-financiers/), 2023 [↑](#footnote-ref-20)
21. Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market [↑](#footnote-ref-21)
22. # [EU list of non-cooperative jurisdictions for tax purposes](https://www.consilium.europa.eu/en/policies/eu-list-of-non-cooperative-jurisdictions/)

    [↑](#footnote-ref-22)
23. # [FATF "Black and grey" lists](https://www.fatf-gafi.org/en/countries/black-and-grey-lists.html)

    [↑](#footnote-ref-23)