

RESPONSE AFG CONSULTATION



Ecolabel

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L'Association Française de la Gestion financière (AFG) représente et défend les intérêts des professionnels de la gestion de portefeuille pour compte de tiers. Créée en 1961, elle réunit tous les acteurs du métier de la gestion d'actifs, qu'elle soit individualisée sous mandat ou collective via les Organismes de placement collectif (OPC). Ses membres sont les sociétés de gestion de portefeuille, entrepreneuriales ou filiales de groupes bancaires ou d'assurance, français et étrangers. Depuis 2009, l'AFG accueille des "membres correspondants" (79 à fin 2017) représentatifs de l'écosystème de la gestion : avocats, cabinets de conseil, SSII, fournisseurs de données, succursales.

La gestion d'actifs française représente, à fin 2017, 4 000 Mds € sous gestion, dont 1 950 Mds € en fonds de droit français et 2 050 Mds € en gestion de mandats et de fonds de droit étranger. Source de plus de 85 000 emplois dont 26 000 propres aux sociétés de gestion, elle joue un rôle essentiel dans le financement de l'économie.

L'AFG a pour mission d'informer, d'assister et de former ses adhérents. Elle leur apporte un concours permanent dans les domaines juridique, fiscal, économique, comptable et technique.

Elle anime la réflexion de la profession sur l'évolution des techniques de gestion, la recherche, et la protection et l'orientation de l'épargne.

Interlocuteur des pouvoirs publics français, européens et internationaux, l'AFG contribue activement à l'évolution de la réglementation. Elle définit les règles de déontologie de la profession et joue un rôle moteur en matière de gouvernement d'entreprise.

L'Association contribue également à la promotion et au rayonnement de la gestion française (l'une des premières au monde) auprès de l'ensemble des acteurs concernés : investisseurs, émetteurs, politiques et médias, en France et à l'international.

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Réponse AFG à la Consultation sur le cahier des charges de l'Ecolabel

AFG, representing the interests of the French investment management industry, welcomes the opportunity to comment on the 2nd Technical Report on Development of EU Ecolabel Criteria for Retail Financial Products.

Objectives

We believe that an EU Ecolabel, if well designed, has a great potential to promote environmentally sustainable projects. However, to achieve this goal, we need a **smart EU Ecolabel**, that means:

- **clarity of purpose**, so that investors understand what the EU Ecolabel stands for. That means that as the EU Ecolabel, aimed at promoting **environmentally** sustainable investments, **should not be confused with 'ESG' labels** promoting not only environmental but also social and governance aspects.
- **well-calibrated criteria to ensure a sufficiently large pool of eligible investments necessary to manage the investment risks**, as well as protect end-investors' savings and satisfy regulatory requirements (e.g. UCITS diversification requirements)¹.

Our recommendations:

- Ensure that the design of the EU Ecolabel clearly reflects its purpose and its focus on the **environmental objectives**.
- It is imperative to perform further and **thorough analysis** on the current level of the EU Taxonomy-aligned activities and their proportion within companies. The EU Ecolabel thresholds should be strictly tested, following the EU Taxonomy and other proposed EU Ecolabel criteria, to obtain a **reliable estimate of the currently available investments and funds** that would meet them.

Scope

For the reasons mentioned above, the scope of the investable universe should be as broad as possible, in order to guarantee appropriate diversification, strengthen investor protection and ensure the success of the EU Ecolabel. Therefore, we would suggest to **include pensions (including saving-schemes), ELTIFs, real estate investments² and investment in private assets** to the extent that they are available to retail investors. Furthermore, in order to answer the objective of shifting the trillions, the scope of the

¹ see Undertakings for the collective investment in transferable securities (UCITS) - Directive 2009/65/EC

² As real estate funds are very different and are treated differently across the Member States, it is important that the criteria for the real estate funds are carefully calibrated. A transition period could be useful for the already existing real estate funds.

investable universe should be as broad as possible, in order to guarantee appropriate diversification, strengthen investor protection and ensure the success of the EU Ecolabel. Therefore, we suggest the following:

- Do not limit the funds eligible to the Ecolabel to Retail funds but enlarge the scope to institutional funds
- Enlarge the retail funds to B-B-C funds, ie. Pension funds such as French FCPEs. These are saving-schemes funds, sold through the employer but the end-client is a retail investor.
- Enlarge the scope of funds, not only to listed equity & bonds but also to ELTIFs, real estate investments and real assets (infrastructure, private equity, capital investment, natural capital...).

Most of technologies developed for the environmental transition are developed by smaller companies, that are unlisted companies.

Acquisition and holding of real estate is **directly recognised as an eligible sustainable activity under the EU Taxonomy**. This will result in easier assessment of the compliance with thresholds and criteria, as well as a better alignment between the EU Ecolabel and the EU Taxonomy. However, currently real estate funds are very different and are treated differently across the Member States. Equally there are different energy and building efficiency standards. This will change with the EU taxonomy. Nevertheless, it is important that the **criteria for the real estate funds are carefully calibrated**. A transition period could be useful for the already existing real estate funds.

Criterion 1: investment in green economic activities

Equity

While we appreciate that the new draft provides for lower the thresholds for equity, allowing 40% of the fund to be invested more freely to cater for diversification and liquidity requirements. However, on the basis of currently available assessments and feedback from our members, we understand that the EU Taxonomy-compliant investment universe will be rather small to begin with. As a result, the current thresholds would still result in a very small number of companies being eligible for inclusion, not matching the objective set by the EU Ecolabel Regulation to target the best 10-20% of the products available on the Community market in terms of environmental performance.

Our understanding is that the EU Taxonomy targets roughly the best 10% of activities, while there are many activities which are EU Taxonomy-neutral or simply not included yet. Difficulties with obtaining data on companies that do not report under NFRD and/or are based outside the EU should be also considered.

Our recommendation: The EC Ecolabel should reflect all that and start with low thresholds, based on a thorough and reliable market assessment, while progressively tighten them over time based with companies increasingly reporting more necessary information. Any tightening of the thresholds should be based on a market assessment.

Bonds

1/ Regarding the thresholds for bonds, the JRC proposal provides for a 70% threshold of total portfolio asset value of bond funds to be invested in bonds that comply with the EU Green Bonds Standard (EU GBS). This threshold seems much more stringent than for equity, as green bonds in line with EU GBS by definition will need to be 100% EU Taxonomy-compliant. Meanwhile, some of these green bonds may be issued by companies carrying out other core business activities with negative environmental impacts.

Our recommendation: We would suggest to have the same level of threshold for equity and bonds, with the same requirements.

It would be useful to clarify whether there are any provisions applicable for the remaining 30% of the portfolio asset value.

2/ Regarding Green Bonds, we would suggest including within the Fixed-Income % threshold:

- green bonds which are not necessarily in line with the EU GBS but issued in accordance with a recognised market standard, as well as
- regular corporate bonds (i.e. not green bonds) issued by companies that would meet the necessary criteria to see their equity instruments eligible under the thresholds for equity funds.
- We suggest allowing the use of CAPEX which is a very relevant metric especially for green bonds. However, if within one fund both revenues and CAPEX metrics were to be used, disclosures should be done separately.

3/ The criteria regarding “climate or environmental risk rating” is inconsistent. The fact that a rating agency or a NGO has analyzed climate risks of a sovereign bond does not mean that the issuer State has taken action regarding those risks.

Our recommendation: At this stage of the development of methodologies, it seems premature to include any exclusion criteria based on those analyses.

Fund of funds

To ensure sufficient availability of funds that can qualify, we would suggest to decrease the proposed threshold of 90% (for investments in target funds that have been awarded the Ecolabel) to at least 70% of AuM in funds being awarded the Ecolabel. We would also suggest to enlarge the proposed threshold to funds being awarded the Ecolabel or other national green label, such as the French Greenfin label for instance.

Criterion 2: Exclusions based on environmental aspects

Environmental exclusions

We welcome the introduction of the “partial exclusions”.

However, will all companies report on exclusion turnover? To our understanding, Disclosures will not ask for this kind of information.

Furthermore, we believe that the list of exclusion should not exclude companies that are in transition as well as to ensure for appropriate risk diversification. Given the overall alignment of the EU Ecolabel criteria with the EU Taxonomy, it would make sense to align the exclusions with the EU Taxonomy also. This would ensure a consistent and science-based approach.

More specifically, we see the following exclusion criteria as problematic:

- **Energy sector:** Combination of the second and third criterion would exclude basically all companies from the energy supply sector. This means that EU Ecolabel products would not be able to participate in, or foster, transition opportunities in such companies.
- **Nuclear:** Nuclear is considered as a transition activity in Taxonomy. It is important to align as much as possible Ecolabel with Taxonomy.

- **Transitional exclusions for transportation:** We do not understand why manufacturers that meet all EU targets for CO2 reduction shall be excluded if they do not undercut those targets. This would effectively mean a total exclusion of investments in the passenger car industry. Also, EU targets apply only to car ranges sold in the EU which creates a problem for the evaluation of the overall equity/bond investment.

Exclusions relating to sovereign and sub-sovereign bonds

Regarding the list of exclusion for sovereign, the list seems quite lengthy and we do wonder how this will work in practice (e.g. countries that have not signed the Paris agreement? what about bonds issued by the Alberta province for instance? Or bonds issued by Italy?).

The list of exclusions for sovereign should only be applied to sovereign debt. It cannot be applied to “use of proceeds” bonds. The only exception currently made is on bonds that comply with the EU GBS. It should be extended to all “use of proceeds” bonds whose proceeds comply with the requirements of the Ecolabel in terms of the activities the bond finances. Otherwise green bonds issued by Chinese authorities – the number one issuer in the world-, for example, will be excluded. It will be a real miss opportunity not to include the vehicles that directly finance the global energy transition.

Criterion 3 : Exclusions based on social and governance aspects

An EU Ecolabel is aimed at promoting environmentally sustainable investments. Hence, we would like to re-iterate our request to focus the exclusions primarily on the environmental aspects. We do agree there is the need for minimum social and governance safeguards. However, for the sake of consistency and clarity for end-investors, we recommend to align them with the EU taxonomy which refers to the International Standards providing for very comprehensive and stringent safeguards, amongst others dealing with bribery and corruption. The exclusion of controversial weapons is a must as in many EU countries it is forbidden to finance controversial weapons.

While we very much welcome the study aimed at testing of the thresholds, commissioned by DG FISMA. However, we regret that the exclusions will not be part of the criteria to be tested. Exclusions will further reduce the investable universe. Moreover, as recognised by the JRC in the assessment of the EU taxonomy, currently verifying whether companies meet the DNSH criteria is very difficult or often even impossible given the ESG information currently disclosed by companies. Furthermore, asset managers often do not have the means to verify that this information is correct.

Our recommendation: Hence, we suggest to manage controversies, instead of applying strict social and governance exclusions.

Specifically, regarding armament, it would be useful to precisely define what is under ‘armament’. Is it as from the first € of turnover?

Criterion 4: Engagement

While recognizing the importance of engagement with investee companies in transitioning to a more sustainable economy, we question whether the requirement to engage regularly with half of companies that have less than 50% EU Taxonomy-compliant activities is the right way forward.

Furthermore, many activities will be considered as "neutral", neither contribute nor harm. What is the purpose to engage with those? To us, it only makes sense for transitioning activities or potential breaches. Hence, we would prefer to foster quality over quantity.

Our recommendations:

- The engagement criteria should be adjusted to reflect the diversity of companies and be made more flexible regarding objectives of the engagement. That could be done by replacing the requirement to engage with companies that have less than 50% EU Taxonomy-compliant activities by encouraging engagement or provide for a comply or explain approach. Hence, we suggest to change the text and not write 'shall engage regularly with at least half of the companies that have less than 50% green activities' but instead '**can** engage regularly with at least half of the companies that have less than 50% green activities'.
- We could ask AM to focus on specific environmental themes and report on the results rather than talking in terms of % of the portfolio. Specific objectives could be set up regarding the theme and report on the progress at the company level. AM could publish its voting policy. AM could define an escalation process explaining conditions when she decides an escalation process on Environmental subjects (for instance, individual or collective dialogue with issuers, have a public report on Engagement, reduce or sell its exposure to an issuer...).
- We do not believe that a specific threshold for engagement should be set, primarily as it may divert resources from companies that are least green, and are not necessarily part of this fund.
- It would be useful to cross-check with the requirements in the Shareholder Rights Directive II to avoid inconsistencies or overlaps. Allowing cross-referencing would be useful.

Criterion 5: Retail investor information

The information proposed to be added to the PRIIPs' KID are extensive and would require a considerable amount of space, which is not available under the current 3-page limit. Hence, taking the JRC proposals on board **would require a change to the level 1 of the PRIIPs Regulation** to extend the number of pages.

Furthermore, we are concerned by the numerous information to be provided to the consumer. We believe the purpose of the Ecolabel is to provide simple and clear information with the ecolabel logo and the optional text box. Criterion 5 seems not relevant as transparency and communication to consumers will already be ensured by the requirements of the regulation on disclosures relating to sustainable investments and sustainability risks.

We disagree with the fact that the Ecolabel criteria detail the content of the information to be included in the annual report on the website. Indeed, this information is defined by the "Disclosures" regulation (Regulation (EU) 2019/2088) and will be detailed in level 2 measures. The Ecolabel should not increase the information to be provided at product level and should at least ensure consistency and no redundancies with the requirements of the disclosures regulation.

Moreover, we disagree with the proposition to provide this information in the KID or KIID. The KID PRIIPS is a standardized document for precontractual information, its format is preset, no new information could be added without modifying the PRIIPS Regulation, which is to be avoided at this point. This criterion is about making available information annually to the consumers. KID or KIID or prospectus are precontractual and do not serve as periodic reporting. We suggest making available the required information in the periodic reporting, as required in the Disclosures regulation.

It is of the utmost importance that retail investors do not receive multiple reporting and that they can rely on the already existing periodic reporting of the fund to be as complete as possible including as such all information about the “green policy”.

We also add that consistent interpretation, timelines and alignment between different regulatory requirements are of crucial importance.

Our recommendation:

The Ecolabel reporting should be included in the periodic report and the annual report of the fund.

The Ecolabel criteria policy of the fund should be included in the Prospectus of the fund.

The Ecolabel textbox disclaimer (criterion 6) should be included in the commercial documentation and in the prospectus.