

EFAMA REPORT ON RESPONSIBLE INVESTMENT

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EXECUTIVE SUMMARY

Responsible Investment (“RI”)¹ is an important feature of the investment management industry. Investment managers, being fiduciaries acting on behalf of their clients², may offer RI products to their clients, the asset owners, to whom they provide services and offer a choice as to the investment approach to be adopted.

It is EFAMA³'s view that RI cannot be captured by a single regime, but a variety of approaches need to be allowed for. EFAMA recognises the lack of standardisation in this area and considers this to be an issue which is not easily resolved. The European Fund Classification (EFC), which is the pan-European classification system that has been developed by EFAMA to facilitate a transparent comparison of investment funds, offers fund providers the possibility of flagging that their funds follow a socially responsible investment strategy. EFAMA believes that if an investment manager provides RI products, it should commit to an adequate amount of transparency regarding its processes so that end investors, its clients or beneficiaries, are able to evaluate and compare how it meets the demand for RI. Increased transparency of client reporting, communication of investment approaches and selection methods would help investors distinguish between different RI offerings and allow them to make more informed decisions. EFAMA would welcome universal standards in this area. This would be facilitated by European industry guidance on transparency, which EFAMA aims to be instrumental in developing.

It is EFAMA's view that the European Union should support self regulatory initiatives on transparency of RI. Further, the European Union should endorse RI in the management of its own EU-state owned or controlled funds and investment schemes, and highlight the benefits to institutional asset owners (particularly public pensions and other public institutional investors) of adopting RI practices.

This position paper has been drafted by EFAMA's working group on RI that was formed in autumn 2010. It aims to describe recent developments in RI, establish EFAMA's position in relation to RI and finally suggest some actions going forward. In its appendices this paper provides an overview over RI Selection Methods (Appendix 1), information regarding the historical development of RI as well as a

¹ Responsible Investment, or RI, is used throughout this paper to describe an approach where an asset manager is considering environmental, social and governance issues (ESG) when analyzing companies and making investment decisions. RI is arguably preferable to the more commonly used SRI (where S denotes Socially) since it indicates that the responsibility of investment managers goes beyond being socially responsible to encompass environmental responsibility as well as governance.

² An institutional investor's primary responsibility is the (fiduciary) responsibility to act in the best interests of the end investor, the beneficiary or client. To achieve this, institutional investors endeavour to earn an optimal return on the assets invested – allowing for the legal frameworks and the commitments that they have entered into. The law firm Freshfields Bruckhaus Deringer LLP examined in a 2005 report entitled “A legal framework for the integration of environmental, social and governance issues into institutional investment” the legal frameworks in Australia, Canada, France, Germany, Italy, Japan, Spain, the UK and the US and concluded that there is no legal bar to the integration of ESG considerations into investment decision-making (provided the focus is always on the beneficiaries' best interest). The report concludes that particular ESG considerations must be taken into account where a consensus among beneficiaries mandates a particular investment strategy.

³ EFAMA is the representative association for the European investment management industry. It represents through its 26 member associations and 51 corporate members approximately EUR 13.5 trillion in assets under management, of which EUR 8 trillion was managed by approximately 53,000 funds at the end of 2010. Just under 36,000 of these funds were UCITS (Undertakings for Collective Investments in Transferable Securities) funds. For more information about EFAMA, please visit www.efama.org.

description of the legal frameworks and various private sector initiatives in relation to RI in selected European countries (Appendix 2).

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1 RECENT DEVELOPMENT OF RESPONSIBLE INVESTMENT

According to Eurosif⁴, RI in Europe is booming - the total RI market in Europe reached a total AuM of €5 trillion by the end of 2009, up from €2.7 trillion two years earlier. Part of this growth of 87% is explained by special factors such as the conversion of some existing funds into RI through the addition of extra-financial criteria into the investment processes⁵, but nevertheless RI appears to be an increasingly important feature of the European investment management industry. A similar development has been seen in the US, where RI assets have grown strongly in the last couple of years⁶.

EFAMA decided in autumn 2010 to establish a working group on RI. Areas for the working group's consideration included the relationship between corporate governance and RI activities, the need for standards for, and labelling of, RI products and tools, and approaches to RI in investment portfolios. Representing a large part of the European asset management industry, EFAMA is well placed to take leadership in the development of guidance for RI among asset managers in Europe.

There is no universally accepted definition of RI available and it goes beyond the purpose of this paper to define it. In broad terms, RI is an investment process or concept encompassing a wide variety of approaches ranging from negative screening and exclusion of companies based on certain criteria to a more positive approach where environmental, social and governance (ESG) factors form the basis of investment selection. A workable definition would be that RI considers ESG issues in the investment process and in investment decisions.

A multitude of factors has driven RI in the last 5-10 years. Most important on the supply side has been initiatives of investment managers and their national associations which are members of EFAMA (see appendix 2). On the demand side there has been an increasing demand from institutional asset owners. Other important drivers have been legislation and increased attention from NGOs and the media.

The launch of United Nation's Principles for Responsible Investment (UN-PRI)⁷ in April 2006 was a significant event in the development of RI. Part of the success of UN-PRI can be attributed to the fact that it was a joint initiative between the UN and the financial services industry. Hence, 20 of the largest institutional investors in the world were involved in the project from the start. There are three different categories of signatories; asset owners, asset managers and service providers but the principles are the same for all three categories.

Another important development has been the rise of national sustainable investment forums or SIFs. Twelve European countries⁸ have SIFs today, a majority of which are members of Eurosif, the pan-European Sustainable Investment Forum that was established in 2001. Eurosif and national SIFs are open to membership not only to investors but also to other organisations with an interest in RI. The

⁴ <http://www.eurosif.org/research/eurosif-sri-study/2010>

⁵ As was the case for example with some prominent French money market funds.

⁶ Social Investment Forum Foundation: 2010 Report on Socially Responsible Investing Trends in the United States

⁷ <http://www.unpri.org>

⁸ Austria, Belgium, Denmark, Finland, France, Germany, Italy, The Netherlands, Spain, Sweden, Switzerland and United Kingdom

purpose of national SIFs varies between countries depending on their constitution but in essence the aim of both national SIFs and Eurosif is to promote sustainable and responsible investment practices through various means, e.g. research and communication.

2 EFAMA POSITION ON RESPONSIBLE INVESTMENT

EFAMA fully recognises the need for the investment management industry to play its part in the aftermath of the financial crisis in rebuilding investor confidence on the financial markets. The basic operating principle of investment management is to provide a fundamental service to the real economy and to society as a whole. Investment managers collect investors' savings and convey those assets to the real economy in the form of equity and debt financing. For the investee companies, this provides a very significant form of financing. For the investors themselves, the returns on their long-term savings invested via investment managers form an increasingly important part of their future retirement income.

It has to be recognised that there are a variety of approaches to RI, not least because individual investors' perceptions as to what can be described as responsible differ. Therefore, the concept cannot be captured by a single regime, but a variety of approaches must be allowed. The aim should be to develop at the European level, procedural standards for investment managers to assist investors evaluate different approaches to responsible investment and allow for informed choice in the marketplace.

Whether an individual investment management firm wants to provide products which are promoted as RI should be a decision to be made by the firm itself. The firms are in the best position to evaluate the nature and level of demand from their customer base for RI products. However, if an investment manager provides such products, it must commit to an adequate amount of transparency regarding its processes so that investors are able to evaluate and compare how investment managers meet demands for RI.

As noted in Section 2 above, figures from Eurosif indicate that demand for RI products is growing and investment managers are willing and prepared to meet this demand from clients. This development could be further facilitated by a European level industry guidance on transparency of the processes used in products promoted as RI, and EFAMA aims to be instrumental in developing such guidance.

As Appendix 2 to this position paper shows, in the specific area of RI there are many initiatives underway in different Member States. These initiatives are in their details diverse but all of them have a common basic element: providing investors with solutions for investing in a way that those investors regard as being responsible in terms of ESG issues.

3 SUGGESTED ACTIONS

It is EFAMA's view that the European Union should:

- support self regulatory initiatives on transparency of RI;
- recognise RI as an incentive that can help encourage corporate responsibility of investee companies and sustainable development;
- endorse RI in the management of EU state -owned or controlled funds and investment schemes;
- encourage institutional asset owners (particularly public pension funds and other public institutional investors) to be transparent about whether they adopt RI practices or not; and
- encourage better and more standardised disclosure of ESG information by investee companies which would facilitate investment managers investing assets on behalf of clients who want to invest in RI products.

Since investors have different preferences in the field of RI, it is difficult to find universal RI standards, other than transparency:

- in reporting on RI;
- regarding investment processes and selection methods; and
- regarding the composition of investors' investment portfolios.

In EFAMA's view transparency in reporting on RI to investors should take place both in the pre- and post-investment phases only for those investment products that are promoted as RI products. In the pre-investment phase, the Key Investor Information Document (KIID) and other issuing documents such as the prospectus for a fund should indicate that the investment policy follows certain RI standards. A reference to where further information of those standards can be found should be included, as the limited space in the KIID will not allow a lengthy description. In the post-investment phase the periodic reports should provide transparency on the fund's and/or manager's RI policy. The same approach could be applied to all Packaged Retail Investment Products (PRIps) where relevant.

The aim of the transparency would be to allow investors to be able to better compare products promoted as RI products. For products that are not promoted as RI products, no additional disclosure described above should be necessary.

EFAMA will develop together with other stakeholders guidance in this area.

APPENDIX 1 – RESPONSIBLE INVESTMENT SELECTION METHODS

Several selection methods are possible within the framework of a policy on responsible investment:

Engagement

This strategy involves the investor or potential investor approaching businesses, industries (or even countries) in order to enter into a dialogue on ESG issues, and to exercise actively any voting rights acquired. It is also possible to join associations that undertake similar dialogues on behalf of their members (e.g. Deminor and Eumedion in the area of Corporate Governance).

Negative screening or exclusion

Avoiding investments in businesses, industries, countries or behaviours on the basis of criteria laid down in the policy on responsible investment.

Positive screening or focus on specific sectors

In a positive screening policy, certain criteria must be met for the investor to invest in the company. A variety of requirements are possible, such as good relations with employees and trade unions, good corporate governance, product safety, donations to charities, etc. It does not exclude businesses or industries, but certain industries may be selected (e.g. clean technology).

Best-in-class policy

A best-in-class approach does not so much exclude sectors or countries as look within a sector or country to see which companies best meet the given criteria. This prevents the returns varying too much from the benchmark, which is an issue in an exclusion strategy.

Thematic investment

Thematic investment is another form of positive screening. Selections can be made on the basis of, for example, sustainable energy technology, water management or microfinance.

Weighted screening or over-/under-weighting

Allowing businesses, industries or countries to be over-weighted or under-weighted in the portfolio on the basis of the policy on responsible investment.

Integrated approach

Here, ESG forms an integral part of the investment analysis and decision, and thus is incorporated into expected future financial returns.

Passive screening or Index tracking

The Dow Jones Sustainability Index⁹ and the FTSE4Good¹⁰ are indices which may be followed by investment institutions within the framework of a responsible investment policy. Reference may also be made to the Dow Jones Islamic Market Index and KLD's Domini 400 Social Index.

⁹

<http://www.sustainability-index.com/>

¹⁰

<http://www.ftse.com/Indices/index.jsp>

Naturally, such an index can also be used as a benchmark, but it is intended more as a method to relate the performance of the manager to an objective measure, and not really as a method of selecting investments. It is important to note which selection method is used to compile the index. In the case of the Dow Jones Sustainability Index, for instance, it is a best-in-class approach.

APPENDIX 2 – HISTORICAL AND COUNTRY SPECIFIC DEVELOPMENTS

HISTORICAL DEVELOPMENTS

Responsible Investment was originally initiated in the 1920s. In the UK, the Methodist Church began avoiding 'sin stocks' in its investment policy and in 1928 the first ethical investment fund, the Pioneer Fund, was established in the USA, enabling Christians to keep "sinful" businesses out of their investment portfolio. By the 1960s, the financial-moralist movement had started to spread to continental Europe, as churches and religious groups placed their financial investments in line with their views and principles. Institutional investors became involved in ethical discussions in connection with the war in Vietnam, when some companies were challenged about their involvement in the production of napalm and anti-personnel weapons and in the 1980s a number of investors were active with regard to the apartheid policy in South Africa. In the 1990s, SRI began a new phase of development. At the root of this more recent movement were social activists, the public's broader consciousness of ESG issues and the growing perception of social responsibility by governments, corporations and investors.

In 2005 the United Nations called on some of the world's largest institutional investors to participate in the development of the UN Principles for Responsible Investment (PRI). The process, coordinated by UN Global Compact and UNEP-FI, brought together representatives from twelve countries and from twenty institutional investors. The principles reflect the core values of institutional, long-term investors. The UN furthermore declared that the principles were not only intended for the largest institutional investors in the world, but also for other institutional investors, investment managers and professional service providers who find common ground in the principles.

COUNTRY SPECIFIC DEVELOPMENTS

1 AUSTRIA

1.1 Legal framework

Currently, there is no specific legal obligation for companies and investors to report on ESG aspects of their business. In particular the Austrian Investment Fund Act (InvFG) does not contain a specific ESG provision. However, some indirect implications in terms of ESG can be found in the Austrian Code of Corporate Governance.

1.2 Private Sector Initiatives

Austrian management companies are members of the FNG-Group which covers the German speaking countries. The Austrian Association of Investment Fund Management Companies (VÖIG) is not member of Eurosif but is increasingly active in the field of responsible investment. In this regard, the national classification of investment funds has been fine-tuned in 2010 in the sense that only those investment funds are classified as "sustainable" if they fulfill the Eurosif transparency standards.

2 BELGIUM

2.1 Legal framework

Over the last years several initiatives and law projects aim at improving corporate governance and shareholder rights. However, at this point in time, there is no legal obligation for companies or investors to disclose or report on ESG aspects of their business or investment activities.

The number of private Member's bills/Government bills that have been submitted in Parliament for the purpose of systematically including social, ethical and environmental aspects into the analysis within the framework of federal and regional investment policies, has been going up in recent years. The target group of "investments of the public sector" also includes the conduct of private institutions that somehow have been financed by means of public money (e.g. a loan which entails a government guarantee, a limited public participation in a company, a pension fund for civil servants).

Several political parties also regularly speak of private Member's bills/Government bills aimed at imposing compliance with a "set of minimum requirements" for social, ethical and environmental commitments in the outline of the investment policy for second (occupational) and third pillar (individual) pension systems.

2.2 Initiatives taken by the private sector

The General Meeting of the Belgian Asset Managers Association (BEAMA) has in June 2009 adopted a Code of Conduct (as part of the Constitution of the Association). This document describes the “best practices” concerning Principles of Governance in Asset Management and their implementation.

The code takes the “fiduciary duty” as a starting point: any entity and/or individual who assumes responsibility for any aspect of portfolio management in the broadest sense of the term recognizes the principle of fiduciary duty and adheres to it when exercising their activities. Generally speaking, fiduciary duty requires that all parties, in the course of their duties, pledge to act in a fair and equitable manner in the clients’ best interests and in respect of market integrity, as provided in the legal and regulatory framework.¹¹ The Code of Conduct deals specifically with the principles arising from the general principle of fiduciary duty, which covers all the others, and the practical interpretation of this principle. The document treats e.g. the following aspects:

- Strategic principles and organization of various Asset Management activities
- Principles and measures of good operating management
- Customer information
- Clients and intermediaries
- Principles of external governance: exercising shareholder/creditor rights.

Besides this general approach on Responsible Investment (RI), additional private initiatives exist in Belgium concerning specifically focused SRI products or SRI labels.

2.2.1. The Belgian Asset Managers Association (BEAMA) defines an all-encompassing concept of “SRI Funds”

Since 2001, BEAMA has been active in monitoring sustainable and socially responsible investment UCIs as well as in taking care of their quality control. The method is regularly improved and updated in the light of the changing interpretation of sustainability and social responsibility. BEAMA informs the public about the SRI Funds that match the profile. A list of SRI Funds commercialized on the Belgian market can be found on www.beama.be. BEAMA also provides quarterly statistics about these SRI Funds.

The BEAMA SRI method can be summarized as follows:

In addition to the common financial criteria, SRI Funds structurally and systematically take into account the aspects relating to the environment, society and governance when they make an outline of their investment policy. This can be done on the basis of several strategies (Best-in-class method, Thematic approach, Normative screening, Exclusion for ethical reasons, Shareholder engagement).

In the screening process, the following minimum standards must be met:

- Compliance with the UN Global Compact principles (<http://www.unglobalcompact.org/>);

¹¹ A specific mention might be made of the Belgian Law of 20 March 2007 which forbids investors in the Belgian market to invest in, or to grant loans to, companies that are involved (in a broad sense) in the production of anti-personnel mines, submunition and depleted uranium weapon systems.

- Exclusion of companies, as laid down in the Belgian law, that, in a broad sense, are involved in the production of anti-personnel mines, sub-ammunition and depleted uranium weapon systems;
- Exclusion of companies directly (i.e. more than 5% of their turnover) involved in the production of non-controversial weapons (end product conceived for killing).
- Over and above those minimum standards, additional screening will take place on the basis of at least one of the strategies mentioned above.

Supervision of the way in which the Fund complies with the SRI investment policy and processes should have a public character. There must be

- clear and regular reporting and justification by the UCI itself as well as
- regular verification by an independent third party.
- Explanation of compliance is best offered in line with the Eurosif Transparency Guidelines.

The independent third party can be an auditor, an independent research institution with the right competence or an advisory body.

2.2.2. BELSIF, ‘Belgian Sustainable and Socially Responsible Investment Forum’

BELSIF is a non-profit organization in which individual financial institutions participate along with social organizations and NGOs. BELSIF wishes to support and actively promote the application of SRI to public and private financial investors. To that end, it organizes an annual “Sustainable and Socially Responsible Investment Week”. It is also the Belgian national member of Eurosif.

2.2.3. RFA, le ‘Réseau Financement Alternatif’

RFA is a non-profit organization consisting of a wide variety of social organizations. Its ambition is to give “money” an added value in terms of social and environmental quality. Its main activities are financial education, research in the field of responsible investment, as well as developing and labelling financial products/services that meet its standards for social responsibility and solidarity (e.g. microfinance, niche savings products, etc.). RFA recommends public enforcement for the purpose of transparent fostering of responsible investment vis-à-vis the citizens.

3 FRANCE

3.1. Legal Framework

3.1.1. Corporate Social Responsibility reporting requirements for companies

Since the NRE law (Loi sur les Nouvelles Réglementations Economiques – 15 May 2001) listed Companies are now required to disclose in their annual report, information regarding their social and environmental impacts.

The Grenelle 2 law, adopted in July 2010, also plans to apply these requirements to unlisted companies with at least 500 employees. The information will be subject to third party verification. The law will be applied from 2012, based on the 2011 reporting period.

On the 2nd of December 2010, the AMF (Autorité des Marchés Financiers) launched a report on information required from listed companies in the field of CSR.

3.1.2. Employees Saving Schemes and Impact Investing (“investissement solidaire”)

Impact investing funds invest up to 10% of their assets in non listed companies, which have as business targets the development of the local economy, job creation, and social housing. These companies have to comply with a set of requirements defined by the Labour Law and must be referenced as such by local authorities. Since 1st of January 2010, all companies have to offer their employees at least one impact investing fund in their respective Employee Savings Scheme. Taking ESG criteria into account for the remaining 90-95% of listed assets in these funds is not mandatory but, in practice, it is often the case.

3.1.3. FRR (Fonds de Réserve pour les Retraites) – ERAFP (Etablissement pour la Retraite Additionnelle pour la Fonction Publique)

The investment policies of these two major French public institutional investors indicate that they must take into account ESG in their investments.

3.2. Private Sector Initiatives

Several initiatives or working groups within institutions, composed of corporate and/or finance industry members have been formed over the past years: AFG (Association Française de la Gestion Financière), FIR (Forum pour l’Investissement Responsable), ORSE (Observatoire pour la Responsabilité Sociale de l’Entreprise) CIES (Comité Intersyndical de l’Épargne Salariale), Paris Europlace, Novethic and Finansol. On one side, these working groups aim at contributing to the setup and development of the industry and to the improvement of the transparency, on the other side, they aim at increasing investors’ and savers’ awareness on SRI.

3.2.1. Private Sector Initiatives aiming at setting up the industry improving transparency

Eurosif AFG/ FIR Transparency Code¹²

Eurosif, AFG (Association Française de Gestion Financière) and FIR (Responsible Investment Forum) have set up a Transparency Code compulsory for all SRI Funds. This Code’s objective is to improve transparency and understanding of SRI funds for investors, savers and other stakeholders. It

¹² http://www.afg.asso.fr/index.php?option=com_docman&Itemid=234&lang=fr

contributes to an approach based on pro-active, self-regulation in favour of the development of the SRI market.

The Transparency code is filed by asset managers and it has to contain information regarding:

- General SRI philosophy of the asset managers
- ESG criteria: how criteria are defined and how investors are informed on any changes
- ESG analysis: methodology and process, internal resources and/or rating agencies used, shareholder dialogue, public availability of the research for issuers and for investors
- ESG integration into portfolio management
- Engagement Policy
- Corporate Governance and proxy voting policy

Novethic SRI Label¹³

Novethic, part of Caisse des Dépôts et Consignations, is the leading research centre in France on Corporate Social Responsibility (CSR) and Socially Responsible Investment (SRI) as well as a sustainable development media expert.

The Novethic SRI Label is awarded to mutual funds whose management systematically takes into account E, S and G criteria. In order to obtain the Label, the fund manager must detail the fund's SRI management approach, provide reporting on the ESG characteristics of the fund and disclose a complete list of portfolio holdings. This label does not cover the financial characteristics of the funds; it is not a guarantee of financial performance, nor is it an explicit incentive to invest in the funds.

CIES Label¹⁴

The CIES (Comité Intersyndical de l'Épargne Salariale) was established January 29, 2002 by 4 trade unions (CGT, CFTC, CFE-CGC and CFDT). It aims at:

- Better securing assets invested by employees by offering a socially responsible investment (SRI) option;
- Influencing corporate behavior by using employees' savings to serve SRI objectives, especially by voting at the annual general assembly (AGM) of shareholders of companies.

The CIES has created a label, attributed to products offered by various asset management companies. It is an incentive for employees to select these products. Criteria to obtain the Label cover:

- Use of ESG rating agencies and internal resources dedicated to ESG
- low management fees
- Fund supervisory committee composed of a majority of employees representatives (2/3)
- Fund supervisory committee consulted for proxy voting
- Control and Audit structures

¹³ http://www.novethic.com/novethic/v3_uk/sri-label.jsp

¹⁴ http://comite.cies.free.fr/membres_fichiers/Le%20CIES.pdf

The Sustainable Financing and Socially Responsible Investment Chair¹⁵

At the behest of the AFG, a dozen asset management companies and six other institutions, including the Euronext Pension Fund and the Europlace Institute of Finance, decided to finance an academic Chair in responsible investment and sustainable finance.

The work done under this scheme should help develop new valuation models that factor in the environmental and social impact of companies' actions in the long term.

Corporate governance and proxy voting¹⁶

Since 1999 AFG has established a monitoring and alerts programme to draw to the attention of the 400 Asset Management Companies members of AFG on the resolutions which do not comply with AFG Corporate Governance Recommendations.

These alerts point out all resolutions submitted to the AGMs of SBF 120 listed companies which do not comply with AFG Corporate Governance Recommendations. Such alerts are sent to the members of AFG and are made available to the public on AFG website.

3.2.2. Private Sector Initiative to increase SRI awareness***The SRI Week organised by the FIR (French Social Investment Forum), under the high patronage of the Sustainable Development Ministry¹⁷***

The first French SRI Week took place in October 2010 and aimed at increasing the awareness of retail investors on SRI, its methods and its objectives. Various events on this topic, such as conferences, working groups, meetings, chats on the internet, were organised all over the country by retail banks and insurance companies.

The Impact Investing (“investissement solidaire”) Week organised by Finansol¹⁸

The Impact Investing Week organised annually in November intends to demonstrate the possibility of making profitable investments, while funding activities with high social benefit (employment, housing, environment, international solidarity).

Guide Les clés de la Banque – L'Investissement Socialement Responsable¹⁹

This guide aims at helping savers to discover SRI and give them the tools to talk with their financial advisors to select the type of product that best fits their ideas, values, and investment goals.

La promotion de l'ISR par les organismes financiers - Guide on best practices to help retail banks promoting SRI²⁰

¹⁵ <http://www.idei.fr/chairefdir/mission.php>

¹⁶ http://www.afg.asso.fr/index.php?option=com_docman&Itemid=151&lang=fr

¹⁷ <http://www.semaine-isr.com/index.php>

¹⁸ <http://finansol.org/blog/>

¹⁹ [http://www.lesclesdelabanque.com/web/Cles/Content.nsf/DocumentsByIDWeb/86UKSS/\\$File/Mini-Guide_HS_ISR.pdf](http://www.lesclesdelabanque.com/web/Cles/Content.nsf/DocumentsByIDWeb/86UKSS/$File/Mini-Guide_HS_ISR.pdf)

²⁰ http://www.orse.org/site2/maj/phototheque/photos/docs_finance/guide_ISR_11_2009.pdf

4 GERMANY

4.1. Legal Framework

The existing framework is based on German and European law, global norms and also the pertinent environmental and social standards ‘UN Global Compact’ and ‘OECD Guidelines for Multinational Enterprises’ as well as the ‘UN Convention on Cluster Munitions’. The Federal Republic of Germany ratified the application of these standards.

As of today, ESG standards for disclosure and reporting explicitly exist for stock-market listed companies. The German Stock Companies Act (§ 161 Aktiengesetz) claims, that the board of managers and the supervisory board have to declare on an annual basis, that they comply with the recommendations of the “Regierungskommission Deutscher Corporate Governance Kodex”. Companies have to explain investors in case they not adhered to the above recommendations.

All business enterprises have to comply with the Handelsgesetzbuch (HGB). §315 (1) and §289 (3) state, that financial reports have to include non-financial performance indicators, like information on environmental affairs and employee interests as far as relevant for business development.

4.2. Private Sector Initiatives

The legal environment is associated by a variety of private sector initiatives:

4.2.1. Deutscher Nachhaltigkeitskodex (DNK)²¹

The ‘Rat für Nachhaltige Entwicklung’ is currently developing a code of conduct, which aims at achieving the realisation of sustainability for all economic stakeholders.

DNK will apply for all companies in the financial market and especially of stockmarket-listed companies. §161 Aktiengesetz shall be extended respectively.

DNK ties in with international Key Performance Indicators (KPIs) for Environment, Social, Governance (ESG) of Deutsche Vereinigung der Finanzanalysten (EFFAS/DVFA)²² as well as international rules and regulations like UN Global Compact²³ and the Global Reporting Initiative (GRI G3)²⁴. It does not replace common reporting instruments.

²¹ <http://www.nachhaltigkeitsrat.de/projekte/eigene-projekte/deutscher-nachhaltigkeitskodex>

²² www.effas-esg.com

²³ www.unglobalcompact.org

²⁴ www.globalreporting.org

4.2.2. Corporate level: Policies / Collaborations / Initiatives

At corporate level a wide range of activities can be identified, yet on a voluntary basis:

- Proxy voting policies containing ESG aspects
- ESG policies
- Signatory of the UN Principles of Responsible Investing (UN PRI), Signatory of the Carbon Disclosure Project (CDP) and the Investor Network on Climate Risk (INCR)
- Memberships of Eurosif and Forum ‘Nachhaltige Geldanlagen’
- Memberships of the DVFA non-financial working group (ESG key performance indicators) and the CDP Working Group Germany
- Memberships of the World Bank / OECD Global Corporate Governance Forum, International Corporate Governance Network (ICGN) and the German Corporate Governance Commission

Fund companies show ESG- and CO2-ratings embedded in proprietary research platforms. They support research projects on analysis of extra-financial risks and climate change with selected universities and institutes.

Portfolio Managers are encouraged to take advantage of “non-financial assessments”. Industry targets include an extension of credibility and transparency. ESG disclosure must be comprehensive, consistent, relevant, standardized and independently verified. ESG reporting should therefore be according to global ESG standards like Global Reporting Initiative, DVFA/EFFAS KPIs for ESG and Carbon Disclosure Project (CDP). A commitment for a signatory and adherence of the norms UN Global Compact and OECD Guideline for Multinationals exists. The ESG strategy and responsibility shall be anchored on board level and compensations partly linked to ESG performance.

5 ITALY

5.1. Legal framework

ESG disclosure

Currently, a legal obligation for companies and investors to report on ESG aspects of their business does not exist. In the Decree 32/2007, enforcing the EC Directive 2003/51, affirms the possibility to integrate financial indicators with extra-financial indicators related to the company’s activities, such as the information concerning the environment and the human capital.

Since 2005, Pension Fund managers are obliged (DL 252/05) to include in their annual report and their communication to the investors whether and to what extent ESG criteria are adopted in the management of assets.

CONSOB - the public authority responsible for regulating the Italian securities market - intervened in 2007 with the Decision n. 15691, affirming the obligation to inform and account for those products and services labeled as “ethic” or “socially responsible”, offered by qualified subjects and insurance companies.

In 2010, ISVAP – the public authority responsible for regulating the Italian insurance companies – approved the Regulation n. 35, providing dispositions on the information to be disclosed on insurance products, labeled as “ethic” or “socially responsible”.

Whether CONSOB and ISVAP measures implement the 2005/262 Act.

Active ownership

The right of the shareholder to intervene at the general meeting is stated in the *article 2.370 of the Civil Code*.

The *D.Lgs 58/1998 (Testo Unico della Finanza)* devotes a full section (articles 125-134) to the shareholders’ rights; specifically, the article 127-ter states the right to formulate questions before the general meeting, in order to receive an answer during its course.

Banca d’Italia (2008). Disposizioni di vigilanza in materia di organizzazione e governo societario delle banche.

It contains directives to be followed about the organization and government of banks. The disposals relevant to the aim of active ownership, relate to the remuneration and the information flows. *Remuneration*: the shareholder meeting approves the remuneration policies, remuneration plans on financial instruments (stock option) as well as the remunerations of the bodies appointed by the shareholder meeting.

Information flow: banks have to guarantee a complete information and effective ways of communication among and within the corporate governance bodies.

5.2. Private Sector Initiatives

Companies and organizations, including Assogestioni – the association of Italian asset managers - gather in the Forum for Sustainable Finance (FFS) part of the Eurosif network to promote and support the adoption of RI criteria in finance.

To assist in the compliance of *pension fund managers* to regulation and raise awareness of RI issues, the FFS has organized training programs and developed guidelines on how to make information to stakeholders about RI clear, accessible and effective. In addition, the FFS has produced training material for investment advisor in the field of RI.

As a more direct action in the field of ESG activity, Assogestioni has been active since 1994 in the promotion of more transparent and fair corporate governance both within the asset management industry and in the investee companies. With regards to the former, Assogestioni has drafted and promoted among its members a Code for the Governance of Conflict of Interest.

As for the latter, since 1996 the association has been supporting the active participation of asset managers in investee annual meetings and assisting in the presentation of slates of candidates for

the appointment of independent minority directors and statutory auditors in Italian listed companies.

6 LUXEMBOURG

6.1. Legal framework

At this point in time, there is no legal obligation for companies or investors to disclose or report on ESG aspects of their business or investment activities nor specific regulation on responsible investment.

It should nevertheless be noted that with the transposition of the Commission directive 2010/43/EU of July 2010 implementing the UCITS Directive, management companies will be required to disclose their strategies for the exercise of voting rights.

Moreover, since this year, Investment Funds investing into Microfinance Institutions are tax exempted (taxe d'abonnement).

6.2. Private sector initiatives

As there is no "SIF" in Luxembourg, the Luxembourg fund Association (Alfi) is member of Eurosif.

LuxFLAG label concept: LuxFLAG was founded in 2006 by ALFI, the Luxembourg government, Stock Exchange, Banking association,... It grants a label to regulated investment vehicles (whatever be the domicile) investing mainly into microfinance. The label is granted by an eligibility committee comprising members of LuxFLAG, including microfinance NGO's. In 2009, a social performance dimension has been added to the eligibility requirements, which will become mandatory in 2011. So far, 14 MIV's (Microfinance Investment Vehicles) have obtained the label. Whilst this number is rather small it is considered to represent to significant percentage of the MIV's aimed at distribution into the public.

In 2010, the Board to LuxFLAG decided to extend the scope of the labels to Environment investment funds. This label is to be launched by LuxFLAG shortly.

A Luxembourg NGO (Etika) is also publishing a guide on SRI funds available for sale in Luxembourg (http://www.etika.lu/IMG/pdf/etika_guide_placements_2009.pdf).

7 NETHERLANDS

7.1. Legal framework

In March of 2010 the Dutch government (at the time a centre-left coalition) has restated its view²⁵ on the subject on the occasion of the signing of the Treaty on Cluster Munitions. Although the Treaty on Cluster Munitions, which the government would ratify, would take effect on August 1, 2010, there was no reason to prohibit financial institutions, including pension funds, from investing in cluster munitions, because the treaty binds states, not private institutions. The principal reason however is that the government felt it should remain reserved when it comes to restricting financial institutions in their investment policies.

A prohibition would not have any added value, as no effective enforcement is possible. Blacklisting is difficult: there is the issue of the scope of the prohibition and the political consequences that might follow. A prohibition of wilful (“connaissance de cause”) investment in cluster munitions has been considered, but is also almost impossible to enforce. It might also hinder prudent investment policy, as the investment portfolio would get another risk profile than the available market indices, making performance measurement more difficult.

The Dutch government expects a prohibition to work counterproductively, because it would make it impossible for investors to report on what is prohibited and in-transparent ways of investing would be found.

The Dutch government therefore introduced a SRI “Transparency benchmark” for companies in 2007.²⁶ On that occasion²⁷ the government stated that SRI is essential out of reach of the law and there is no standard recipe, because every company faces different challenges and dilemmas. SRI by pension funds is their responsibility, not the governments. Their investment policies should be prudent and in the interest of the stakeholders in the fund (pensioners, sleepers, contributors). The Dutch government is of the view that companies should be transparent with regard to their considerations regarding decision to invest or not in the framework of their SRI policy, and be prepared to enter into a serious dialogue with their stakeholders.²⁸

The government expects the road of transparency to work best, because it attributes responsibility to those who should be responsible and it allows for more tailor made solutions. The government has pointed to several indicators that this approach is working. The Eerlijke Bankwijzer (“Honest Banking Indicator”) found in July of 2009 that 5 out of 6 major banks have already taken concrete steps to a more stringent investment policy regarding weapons and divestments. A survey by the

²⁵ Kamerstuk 22.054, nr. 158, March 31, 2010.

²⁶ Unfortunately, most of the information is in Dutch only and most of the links in the webpage are for participating companies only. <http://www.rijksoverheid.nl/onderwerpen/maatschappelijk-verantwoord-ondernemen/nederlandse-beleid-voor-mvo/transparantiebenchmark-mvo>

²⁷ Kabinetsvisie Maatschappelijk Verantwoord Ondernemen (MVO), Kamerstuk 26.485, nr. 53.

²⁸ Aanhangsel Handelingen II 2008/09, nr. 3720 (answer to parliamentary questions by Kalma and Tang, MPs, on investments by financial institutions in arms manufacturers and arms exports.

pension fund industry associations of 21 December 2009 has also shown that more and more funds formulate a SRI policy.

7.2. Private sector initiatives

Responsible investment has a relatively brief history in the Netherlands. Although there was a debate about the (un)desirability of investments and interests in South Africa during the apartheid regime (“Boycott Outspan” and campaigns against Shell) in the 1980s, and the trade union movement has for decades taken into account social and ethical problems in its investments, concern did not extend much farther. In Europe and the Netherlands there was no broad movement such as existed in the United States. The first Dutch investment product in line with this development was the Triodos Bank’s Meerwaarde Polis in 1989, in cooperation with Delta Lloyd. In 1993 the ASN Aandelenfonds was the first Dutch capital stock fund that enabled private investors to explicitly opt for social, ethical and environmental criteria. Since 1999 the pensions sector has, on the initiative of the trade unions discussed the subject.

In 2007 an investigative reporting television programme revealed that pension funds were investing in cluster munitions and other controversial weapons. The evolution of the Responsible Investment market in the Netherlands continues to be influenced by the focus on cluster munitions and other controversial weapons. Most exclusion policies now still begin with excluding these controversial weapons.

As a result of this television broadcast the Dutch pensions industry published a 75 page SRI investment policy document on November 14, 2007.²⁹ The report was focussed on pension fund boards wishing to know more about SRI and handing them tools for implementation of a policy. The report stated that every pension fund board was responsible for its own investment policy, including SRI. The VBDO has published its annual benchmark report on the Responsible Investment policies of pension funds since 2007.

In July of 2009 the Dutch Fund and Asset Management Association (DUFAS) published a follow up on the pension industry report, providing tools to asset managers to help investors design and execute their SRI policy.

8 NORWAY

8.1. Legal framework

In Norway there is not specific legal framework regarding RI. However there are mainly three approaches used by fund managers.

²⁹ De gearriveerde toekomst, Nederlandse pensioenfondsen en de praktijk van verantwoord beleggen

No specific ethical guidelines: This approach comprises fund providers which do not at all or only in a limited way refer to ethics or other forms or normative restriction for their investments.

Supplementary ethical guidelines: This includes fund managers that do not offer any ethical or environmental funds. However the management companies following this approach make clear (i.e. in their websites) the way they evaluate and handle companies that consciously violate fundamental human rights or damage the local population, environment or the chosen form of government in their home country. In addition these fund managers avoid unnecessary economic risk by investing in companies that through their activities may incur significant and unwanted liabilities due to health related claim, legislative changes and environmental abuse. Normally these issues will be considered as part of a thorough analysis before the fund manager invests in a new company. In the evaluation of companies in this context, their intentions shall count more than the companies' record.

Ethical Guidelines for the Government Pension Fund Global (GPF): This approach is primarily related to the welfare state and the creation of the GPF which is managed by the Norges Bank Investment Management (NBIM) on behalf of the Ministry of Finance, which owns the fund on behalf of the Norwegian people. The Ministry determines the fund's investment strategy, following advice from among others NBIM and discussions in Parliament. The GPF is strictly regulated by the Government Pension Fund Act no. 123 of 21 December 2005 and the Regulations of 22 December 2005 no. 1725 regarding the management of the GPF.

The original ethical guidelines for the GPF have recently been replaced by two sets of guidelines: one on work linked to exclusion and observation of companies and one for Norges Bank's work on responsible management and exercise of ownership rights. Funds that follow this approach used these guidelines as their benchmark when investing and offer ethical and environmental funds³⁰.

8.2. Private sector initiatives

The Norwegian Forum for Sustainable and Responsible Investments (NORSIF) is an independent, neutral forum which promotes work and cooperation in sustainable and responsible investment. NORSIF's focus areas are:

- Collect and disseminate information on sustainable and responsible investing
- Promote and coordinate sustainable and responsible investment initiatives
- Contribute to the development and exchange of new information on sustainable and responsible investing
- Be a forum for sustainable and responsible investors and asset managers, as well as for others interested in sustainable and responsible investing
- Initiate research on responsible investment

³⁰

<http://www.regjeringen.no/en/dep/fin/Selected-topics/the-government-pension-fund/responsible-investments/Guidelines-for-observation-and-exclusion-from-the-Government-Pension-Fund-Globals-investment-universe.html?id=594254>

9 SWEDEN

9.1. Legal framework

In the Swedish government proposition 1999/2000:46 on the *AP funds in a reformed pension system* it was stated that “environmental and ethical issues shall be considered in the investment activity [of the national Swedish pension funds 1-4] without wavering the overall purpose of good returns”. Although the sentence above never entered the actual law, preparatory work is very important in Swedish legal tradition. No legal requirements are put on private institutional investors and asset managers in relation to RI but the Swedish financial market shows a high degree of self-regulation. One part of that self-regulation is the Ethical Marketing Committee for Funds, a body whose task is to prevent misleading marketing of investment funds. In 2009 the committee issued new rules targeting funds that include RI as part of the value proposition. Such funds are not allowed to invest in companies with revenues of more than 5% stemming from any sector the fund is avoiding such as alcohol, tobacco, gambling, pornography and weapons. Further, the management company of such funds shall provide easily accessible reports on its investment policy and selection process.

9.2. Private sector initiatives

Responsible investment has been applied to Swedish investment portfolios for more than three decades. An early adapter was the Church of Sweden, who started with a negative screening approach in 1980. During this period the analysis models used has evolved from a focus on negative screening to more of a positive sustainability approach. RI got a boost around the millennium shift when the government proposed that the national pension funds should consider ethical issues and the environment in its investments. Institutional investors have been the primary driving force and today it is not possible for an asset manager to gain an institutional mandate without having some kind of RI policy. In the retail space most major fund management companies today offer RI funds. Sweden’s sustainable investment forum Swesif recently (December 2010) launched a draft SRI profile for usage on a fund level. The purpose of this initiative is to establish a market standard for investor information on funds with RI features. In the draft format the profile describes which criteria are used in the fund’s investment process to include or exclude companies on the basis of environmental, social and governance factors as well as on what basis the asset manager of the fund try to impact companies the fund invests in. Currently there is no such standard in the Swedish market, although the Swedish Investment Fund Association’s code of conduct includes guidelines on corporate governance.

Another important initiative is Sustainable Value Creation, a co-operation between fifteen of the largest asset managers and asset owners in Sweden. The initiative, launched in 2009 and based on a Norwegian model, aims at improving the ESG reporting of the largest companies on the Swedish stock market. The project collects data from the 100 largest companies through a survey directed to the chairman of the board. Results are benchmarked and reported back to the companies.

Nearly half of the Swedish Investment Fund Association’s member companies have signed the UN PRI to date.

10 SWITZERLAND

10.1. Legal framework

Article 73 of the Swiss constitution refers to sustainable development, but it does not extend to investment activities³¹. Swiss company and accounting law is currently being revised. Corporate governance, in particular, is to be improved, new rules on capital structures and accounting and reporting requirements will be introduced, and the provisions governing annual general meetings will be updated³². This revision also acts as an indirect counter-proposal to the pending popular initiative "Against fat-cat salaries". Both the popular initiative and the counter proposal will be subject to a public referendum. Since 2002, based on the national law ruling occupational pension funds, the latter must state whether or not they actively exercise their voting rights³³. A parliamentary initiative asking to make CSR reporting mandatory for companies did not find support. On the regional level, the city of Geneva has drafted an RI charter for their investment activities. All in all, several initiatives and law projects aim at improving corporate governance and shareholder rights, however, at this point in time, there is no legal obligation for companies or investors to disclose or report on ESG aspects of their business or investment activities.

10.2. Private sector initiatives

Corporate governance codes or guidelines have been published by the Swiss Stock Exchange for listed companies and the "economiesuisse", the largest umbrella organization representing the Swiss economy³⁴ based/inspired largely by OECD standards. An influential private sector initiative is the Geneva-based Ethos foundation. Originally created by two large public pension funds, it currently consists of over 100 Swiss-based institutional investors interested in RI. Ethos has been promoting active ownership and better ESG standards since its inception in 1997, and its influence in the investment community has been growing steadily. Development of RI in Switzerland has been primarily private sector and supply-side driven. The financial industry in Switzerland has been very innovative in developing RI investment products since the early 1990s and several of Europe's leading RI asset managers and index providers can be found among Swiss financial service providers (Pictet, Sarasin, SAM etc.). Apart from some information platforms on RI investment vehicles³⁵, there is no Swiss labelling scheme or project in the RI field. However, all the major providers adhere to the Eurosif transparency guidelines for retail funds and some of them have gone for the Novethic SRI label in France. In general, therefore, quality and transparency regarding RI products is rather good due to the relatively long experience of the Swiss players, their intense competition and the high level of scrutiny from clients, the media and the public that RI investment are faced with. The active RI market in Switzerland has also led to the early establishment of independent RI rating agencies (Centre Info, Inrate) and the build-up of in-house RI research teams within the financial industry.

³¹ <http://www.admin.ch/ch/f/rs/101/a73.html>

³² <http://www.bj.admin.ch/content/bj/en/home/themen/wirtschaft/gesetzgebung/aktienrechtsrevision.html>

³³ http://www.admin.ch/ch/f/rs/831_441_1/a49a.html.

³⁴ <http://www.economiesuisse.ch/web/en/pages/default.aspx>

³⁵ Cf., for instance, <http://www.evb.ch/p13141.html>

11 UK

11.1. Legal framework

Asset Managers: The UK Financial Services Authority (FSA) has made it a requirement that, since 6th December 2010, all UK-authorized investment management firms must disclose the nature of their commitment to the UK Stewardship Code (see below).or explain their alternative investment strategy in instances where they have opted not to follow the principles of the Code.

Pension Funds: The Pensions Act 1995 includes a requirement that pension funds with at least 100 members must maintain a statement of investment principles (SIP) which states the funds' investment policy and principles governing its decisions about the investment of fund money.

UK Local Authority pension funds must adhere to the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009. This states that the SIP must include the extent (if at all) to which social, environmental or ethical considerations are taken into account in the selection, retention and realisation of investments. The terms of appointments of external fund managers include a provision that the fund manager must take account of, and shall not contravene, this Statement in undertaking its management role.

Private pension funds comply with the Occupational Pension Schemes (Investment) Regulations 2005. This does not set out any requirements in relation to RI.

11.2. Private sector initiatives

Investor Stewardship Code: In July 2010 the UK Financial Reporting Council (FRC) published a stewardship code to set out best practice for institutional investors with regard to UK listed companies in which they invest³⁶.

It includes principles and guidance for best practice in the following areas:

- Disclosure of a policy on stewardship
- Conflicts of interest
- Monitoring
- Escalation
- Collective engagement
- Voting and disclosure
- Reporting

Institutional investors were invited to “comply or explain” against the principles and to publish their response on their website. The FRC publishes links to all responses on its own website³⁷. There are

³⁶ <http://www.frc.org.uk/images/uploaded/documents/UK%20Stewardship%20Code%20July%2020103.pdf>

³⁷ <http://www.frc.org.uk/corporate/stewardshipstatements.cfm>

currently around 140 institutional investors who have voluntarily published the nature of their compliance with the Code.

High proportion of UN PRI signatories: In September 2010, 13% of the asset managers (57 of over 400 worldwide) and 16% of the professional service providers (26 of more than 150) among the signatories to the UN-backed Principles for Responsible Investment (PRI) were from the UK, as were 10% (22 from about 200) of the asset owner signatories.