Swiss Banking

Guidelines for the financial service providers on the integration of ESG-preferences and ESG-risks and the prevention of greenwashing in investment advice and portfolio management

May 2024

Guidelines of the SBA

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Self-regulation of 16 June 2022 for the member institutions of the Swiss Bankers Association (SBA) and financial service providers that have joined the self-regulation (updated on 7 May 2024).

Preamble

With the intention of

a. contributing to sustainability within the meaning of the Federal Council's guidelines (report of 24 June 2020) and the press release on sustainable finance (17 November 2021);
b. integrating clients' ESG-preferences and possible ESG-risks in investment advice and portfolio management;
c. creating transparency for clients on ESG in investment advice and portfolio management and preventing greenwashing (in line with the Federal Council's position on the prevention of greenwashing in the financial sector, published on 16 December 2022); and
d. thereby further strengthening Switzerland's financial centre nationally and internationally,

the member institutions of the SBA as well as joining banks and other financial service providers (together "financial service providers"), agree to adhere to these guidelines.

1. Purpose, scope of application and guidelines for implementation

1.1 Purpose

Art. 1

1 These guidelines define a uniform minimum standard within the industry for the disclosure of ESG characteristics, the consideration of ESG-preferences and -risks and the prevention of greenwashing in investment advice (portfolio-based and transaction-based) and portfolio management.

2 They also define uniform minimum standards for referring to an investment solution as sustainable.

3 Among other things, they shall prevent greenwashing when providing investment advice and portfolio management to clients. These guidelines therefore also serve to promote the Swiss financial centre and enhance its reputation.

1.2 Scope of application

Art. 2

1 These guidelines are binding for SBA members and must not be excluded by contracts with clients. As regards the territorial scope of application, the provisions of the Financial Services Act (FinSA) and the Financial Services Ordinance (FinSO) apply analogously.

2 Non-members may join the guidelines voluntarily and communicate this to the SBA in writing or another form demonstrable via text. Based thereon, non-members will be included in a list which is published by the SBA on its website and updated periodically.

3 These guidelines complement the duties set out in the FinSA governing the provision of information, disclosure, documentation and rendering of account with regard to ESG aspects at the point of sale and apply specifically to banks' investment advisory and (segregated) portfolio management activities. In the event of any overlap in connection with these two types of financial service, these guidelines take precedence over other associations' regulations. Producers and/or managers of collective assets under Article 24 of the Financial Institutions Act (FinIA) should refer to the self-regulation on transparency and disclosure for sustainability-related collective assets published by the Asset Management Association Switzerland (AMAS). Non-AMAS members may also affiliate to the AMAS self-regulation.

Art. 3

The guidelines relate to investment advice taking account of the client portfolio and portfolio management services. The other financial services according to FinSA art. 3 letter c are excluded from these guidelines.

1.3 Guidelines for implementation

Art. 4

1 These guidelines set out principle-based obligations that the financial service providers must substantiate and implement with a view to their individual circumstances.

2 These guidelines set minimum standards. Financial service providers are free to implement more comprehensive measures.

3 If a financial service provider meets the relevant EU standards on ESG in the areas of investment advice and portfolio management, the requirements of these guidelines shall be deemed to have been met as well.

Art. 5

These guidelines do not create any new obligations under civil law or revoke any existing ones, nor do they exempt the financial service providers governed by them from complying with existing supervisory and civil law obligations.

Art. 6

Investment advisory and portfolio management processes which already integrate ESG-preferences and risks are to be verified for conformity with these guidelines, and must be adapted by the financial service provider if necessary.

2. Prevention of greenwashing

Art. 7

1 Financial service providers take appropriate measures in line with the self-regulation to prevent greenwashing in connection with investment solutions.

2 In the context of greenwashing, three levels are essentially relevant: financial service provider, financial service and financial instrument.

3 The focus of these guidelines is on the financial service level. On the level of the financial instrument, examples of greenwashing in relation to collective investment schemes are set out in FINMA Guidance 05/2021 "Preventing and combating greenwashing". These constellations may also be relevant to other financial instruments. Measures to combat greenwashing at the level of financial instruments are also outlined in the guidelines of other industry organisations. The risk of greenwashing at the level of the financial service provider can also be countered through suitable training and education of staff (see art. 15).

3. Definitions

Art. 8

1 The following terms apply in these guidelines:

a. ESG: stands for Environment (e.g. energy consumption, water consumption), Social (e.g. attractiveness of employer, management of supply chains) and Governance (e.g. compensation policy, company stewardship).

b. ESG-criteria: investment criteria relating to ESG topics.

c. ESG-preferences: client's preferences as to whether and, if applicable, which ESG-characteristics should be integrated into their investment solutions.

d. ESG-approaches: approaches as to how ESG-criteria are integrated into the investment process. The currently valid version of the AMAS self-regulation on transparency and disclosure for sustainability-related collective assets (Appendix 1 – Sustainable investment approaches) and the AMAS/Swiss Sustainable Finance publication "Recommendations on transparency and minimum requirements for sustainable investment approaches and products" contain illustrative and detailed descriptions of possible ESG-approaches.

e. ESG-characteristics: ESG-criteria and/or approaches taken into account in ESG-investment solutions.

f. ESG-risks: environmental, social and governance events or situations that are currently having a negative impact on economic, cost or reputation factors, for example, and thus also on the value of a company or the market price of financial instruments or could potentially do so in future.

g. Investment solutions: portfolio management mandates under Article 3 letter c point 3 FinSA and portfolio-based investment advice under Article 3 letter c point 4 FinSA.

h. ESG-investment solutions: investment solutions that take ESG-criteria into account.

i. Sustainable investment solution: An ESG investment solution referred to as sustainable should additionally pursue at least one of the following investment objectives in addition to its financial objectives:

    i. compatibility (including transition) with one or more specific sustainability goals or

    ii. contribution to one or more specific sustainability goals.

   The sustainability goal or goals pursued is/are defined in accordance with

    i. a clearly defined reference framework and

    ii. specific indicators that can be used to measure and monitor the goal or goals.

   The relevant sustainability goals can be pursued using one or more sustainability approaches and in line with one or more reference frameworks.

   The following in particular may serve as reference frameworks for sustainability goals:

    i. criteria published by a Swiss or foreign government authority;

    ii. criteria developed by a non-government organisation;

iii. criteria that reflect generally recognised industry practices; and/or

iv. criteria developed by the financial service provider itself.

2 Otherwise, the terms set out in the FinSA apply to these guidelines.

4. Client segmentation

Art. 9

1 These guidelines adopt the client segmentation according to Article 4 FinSA. Financial service providers assign the persons to whom they provide financial services to one of the following segments:

a. private (retail) clients;

b. professional clients;

c. institutional clients.

2 Professional clients can waive the application of the obligations set out in art. 10 and 13–14 of these guidelines by financial service providers to them.

3 These guidelines do not apply to institutional clients.

5. Duty to provide information

Art. 10

1 In the clients' interests for more sustainability, it is recommended that financial service providers generally provide them with information about the available ESG-investment solutions.

2 Where ESG-investment solutions are concerned, during the general risk disclosure process, clients are to be informed also about the ESG-risks and -characteristics associated with ESG investment solutions or financial services. This strives to enable clients to understand the relevant ESG-characteristics and, on this basis, be able to tolerate the risks associated with the ESG-investment solutions.

3 The financial service provider also makes available to clients with ESG-preferences general information in relation to the ESG-preferences themselves as well as in relation to the offered ESG-investment solutions. At the same time, it describes which ESG-approaches are followed.

4 The financial service provider informs clients how the specific ESG investment solutions they have chosen take account of their ESG preferences. In addition, the documentation for a sustainable investment solution should specify whether the investment solution pursues a compatibility goal, contributes to the achievement of one or more specific sustainability goals or targets a combination of the two. To this end, the secondary sustainability goals and the ESG approaches used to pursue them as well as the measurement methods and indicators employed must be described.

5 Information must be given in the contract governing the sustainable portfolio management mandate or in a place specified in the contract regarding the minimum proportion of investments that must meet the sustainability criteria stipulated in the strategy or the minimum proportion of sustainability-related investments that must be managed according to the strategy. The proportion of investments that do not meet the sustainability criteria must also be stated and explained. Compliance with the minimum proportion is determined on the basis of compliance at the time of the investment decision or, for strategies that track a sustainability index, the time of the index adjustment(s). The sustainability criteria that are relevant for implementing the investment strategy must be set out in an easy-to-understand form in writing or another form demonstrable via text.

6 Misleading or false information relating to the ESG-characteristics of financial instruments and investment solutions is prohibited.

6. Clients' ESG-preferences

6.1 Assessment

Art. 11

1 The assessment of suitability that has to be conducted for investment advice or portfolio management applies equally to ESG-investment solutions. The financial service provider therefore ensures that the client's ESG-preferences are analogously included in this assessment.

2 When assessing the suitability, the financial service provider therefore enquires about the clients' ESG-preferences. If there are several relationships or portfolios with a client, different ESG-preferences may be collected.

3 Clients can be put into specific groups according to their ESG-preferences (e.g. very interested, interested, neutral; see Chapter 6 Documentation below).

4 ESG-preferences should not take precedence over clients' personal investment objectives. They should therefore only be taken into consideration once the investment objectives have been recorded.

5 If clients do not express any specific ESG-preferences, and therefore take a neutral stance on the integration of ESG-criteria, the consideration of ESG-criteria in investment advice and portfolio management is not or only necessary if the financial service provider itself deems this appropriate.

6 Clients who do not answer the question on ESG-preferences can be treated in the same way as clients who have given a negative reply and can also be considered to be "ESG-neutral".

6.2 Matching

Art. 12

1 The financial service provider ensures that clients' ESG-preferences are aligned with the ESG-characteristics of the investment solution, provided the overriding investment objectives are not violated.

2 If financial instruments or investment solutions do not align with the ESG-preferences expressed by clients (if there is no ESG-related alternative available for the required asset class, for example), this must be clearly highlighted and communicated to the clients in the relevant investment recommendation. Such transactions may only be executed once the clients have been informed of this mismatch. Such a deviation from the ESG-preferences can occur for an individual transaction and does not require a general adjustment of the client profile.

3 Clients considered as "ESG-neutral" may be recommended ESG-investment solutions or financial instruments as well as investment solutions or financial instruments without ESG-criteria.

7. Documentation

Art. 13

Financial service providers document in an appropriate fashion:

a. whether clients have ESG-preferences or are ESG-neutral;
b. if applicable, which ESG-preferences clients have;
c. whether the ESG-characteristics of a given ESG-investment solution match the clients' expressed ESG-preferences;
d. that clients have been informed about the mismatch if ESG-investment solutions deviate from the ESG-preferences they have expressed.

8. Rendering of account

Art. 14

1 The obligations regarding rendering of account stipulated in the FinSA apply analogously to the ascertainment of ESG-preferences.

2 Upon request, financial service providers render account to clients with ESG-preferences on whether the ESG-investment solutions or financial instruments offered match their ESG-preferences.

3 In the case of sustainable portfolio management mandates, they must also render account of the sustainable investment objectives on the basis of indicators. The illustrative and detailed descriptions in the currently valid version of the AMAS self-regulation on transparency and disclosure for sustainability-related collective assets and the AMAS/Swiss Sustainable Finance publication "Recommendations on transparency and minimum requirements for sustainable investment approaches and products" serve as a guide to the scope of this obligation to render account. In the case of sustainable portfolio management mandates that combine contribution and compatibility goals, reporting must refer to both.

9. Training and professional development

Art. 15

1 According to the FinSA, financial service providers ensure that their staff possess the necessary skills, knowledge and experience to perform their work.

2 Client advisors therefore need to obtain appropriate training, respectively possess the relevant knowledge concerning sustainability, ESG-investment solutions, sustainable investment objectives and applicable ESG-approaches. In particular, the relevant training for client advisors should include the following topics:

a. Basics of ESG, including different ESG-risks
b. Overview of international principles and regulations
c. Knowledge of the ESG-approaches followed by the financial service provider in investment advice and portfolio management
d. Specific knowledge and understanding of how the offered ESG-investment solutions satisfy the client's ESG-preferences
e. Knowledge of how existing investment solutions can be transitioned into ESG-investment solutions
f. Basic understanding of greenwashing and how to prevent it

10. Audit

Art. 16

1 Verification of compliance with these guidelines should be included in the audit as well as in the external regulatory audit.

2 The audit should be carried out in accordance with the generally applicable audit frequency of the financial service provider. It should be based on the financial service provider's risks, organisation and activities, but should be carried out at least every three years.

11. Final provisions

Art. 17

1 These guidelines replace the “Guideline for the integration of ESG-considerations into the advisory process for private clients (2020)” as soon as they are implemented by the individual institution.

2 They were adopted by the SBA’s Board of Directors on 16 June 2022 and entered into force on 1 January 2023.

3 The following transition periods apply:

a. For training and professional development: until 01.01.2024;

b. For new client relationships: until 01.01.2024;

c. For existing client relationships: until 01.01.2025.

4 The changes to these guidelines enter into force on 1 September 2024.

5 The following transition periods apply:

a. for training and professional development: until 01.01.2026 at the latest;

b. for new client relationships: until 01.01. 2026 at the latest;

c. for existing client relationships: until 01.01.2027 at the latest.

6 These guidelines will be reviewed periodically.

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