

# FIDUCIARY DUTY IN THE 21<sup>ST</sup> CENTURY

## FRANCE ROADMAP EXECUTIVE SUMMARY

**The Fiduciary Duty in the 21st Century programme – launched by the Principles for Responsible Investment (PRI), the United Nations Environment Programme Finance Initiative (UNEP FI) and The Generation Foundation – collaborated with Finance for Tomorrow to publish a France roadmap for sustainable finance, setting out recommendations for institutional investors and policy makers.**

**France is one of the leading responsible investment markets in Europe<sup>1</sup>. There has been considerable momentum within the French financial community over the past three years in responsible investment.**

**Regulatory developments in France and Europe are requiring financial actors to clarify their fiduciary duty to incorporate ESG issues into investment strategies and investment tools, and to consider how investors assess the sustainability impact of their investment activities.**

**Such developments include the final adoption of the Action Plan for Business Growth and Transformation (PACTE)<sup>2</sup>, and work driven by the European Commission<sup>3</sup> to clarify investor duties regarding integrating ESG issues and measuring the sustainability impact of sustainable investments.**

### **Despite this progress, obstacles remain:**

- Governments and private actors, including investors, are not appropriately managing climate risks and opportunities to address climate change and limit global warming to 1.5°C above pre-industrial levels<sup>4</sup>.
- Although France is a leader in responsible investment, the sharing of best practices and cooperation between financial players is insufficient to reduce ESG integration costs.
- There is limited training and education on sustainable savings products, causing an imbalance between supply and demand<sup>5</sup>.
- The complex framework of normative requirements<sup>6</sup> means investors take varying approaches to ESG integration, resulting in higher implementation costs and a lack of clarity.
- Upcoming regulatory changes are not communicated effectively to financial actors, creating uncertainty and higher costs of implementation, especially when defining the technical aspects of risk measurement and assessment of the impacts of investment activities.
- Research and development has focused on ESG integration methodologies, leading to complex products, which are hard to compare and assess their sustainability impact.
- Shareholder engagement with issuers on ESG factors remains limited and the exercise of voting rights by investors is perceived as complex and costly<sup>7</sup>.
- There is a lack of investment tools that incorporate the impacts of investment activities.
- French service providers do not meet the investment requirements involved in more innovative methods of ESG integration and impact assessment.
- Article 173 of France's Energy Transition for Green Growth Law has not yet achieved its original intent. Following policy maker consultation with investors, the law was introduced on a "comply or explain" basis, meaning that investors must provide an explanation if they do not comply with any of the requirements outlined in the Act. There is, however, no further guidance or agreement about the expectation of what would be a satisfactory explanation for non-compliance.

1 Eurosif, European SRI Study 2016, <http://www.eurosif.org/wp-content/uploads/2016/11/SRI-study-2016-HR.pdf>

2 [Projet de loi adopté par l'Assemblée Nationale relatif à la croissance et la transformation des entreprises](#)

3 [European Commission legislative proposals](#).

4 [IPCC](#), IPCC special [report](#) on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development and efforts to eradicate poverty.

5 Les français et la finance responsable (The French and responsible finance), an IFOP survey for the FIR and Vigeo Eiris, September 2018, <https://www.ifop.com/publication/les-francais-et-la-finance-responsable/>.

6 Several regulatory developments have emerged recently, both at the European level, with the European Commission's Action Plan for sustainable finance, and at the international level, in the form of the TCFD's recommendations.

7 Report of the French financial markets authority (the AMF), October 2018 - <https://www.amf-france.org/Actualites/Communiqués-de-presse/AMF/annee-2018?docId=workspace%3A%2F%2FSpacesStore%2Fb2e5ea5c-1592-4bac-ae27-efe9a24b42cf>.

To overcome these obstacles, the responsible investment movement in France needs a “second souffle” or second wind. The roadmap makes 10 recommendations to strengthen France’s role in the development of responsible investment, capitalising on progress:

### Clarify and extend investors’ fiduciary responsibility

	Recommendation	Action	Who
1	Clarify that ESG integration is a requirement	Change the regulatory framework to make ESG integration mandatory, including in mandates	Economy and Finance Ministry
		Publish an annual overview of ESG integration	Regulators (ACPR and AMF)
2	Update Article 173 of the Energy Transition for Green Growth law	Disclose how strategies are implemented	Economy and Finance Ministry and Environmental and Social Transition Ministry
		Align reporting across asset classes in order to ensure comparability	Government authorities, collaborating with industry associations and “associations de place”
		Change the law so that all asset owners must comply by 2020, ending the “comply or explain” approach	Economy and Finance Ministry and Environmental and Social Transition Ministry
3	Develop and promote a common set of ESG integration practices across asset classes	Develop a common set of methods, criteria and indicators on ESG integration across asset classes	Finance for Tomorrow, in collaboration with industry associations
		Develop an outreach strategy to promote best practice	Finance for Tomorrow, in collaboration with industry associations
4	Integrate social and environmental outcomes into financial institutions’ responsibilities in order to respond to new investment norms		French financial institutions’ governance, such as boards, C-suite and senior management

### Encourage analysis and measurement of the impacts of investment activities

	Recommendation	Action	Who
5	Undertake a landscaping exercise of existing methods to assess economic, social and environmental impacts	Undertake a landscaping exercise of impact assessment methods	Industry associations, with help from “associations de place” (such as Finance for Tomorrow) and academic research institutes (such as Institut Louis Bachelier)
		Develop a coherent framework for impact assessment	Industry associations, supported by government
6	Develop methodologies to measure social and environmental investment outcomes	Pool resources to develop methodologies that measure investment outcomes	Industry associations, “associations de place” and academic research institutions

### Create an environment in which responsible investment can flourish

	Recommendation	Action	Who
7	Improve information sharing on investment product ESG risks and opportunities. Provide training on sustainable finance across the investment chain	Extend financial intermediaries' advisory services to ESG risks and opportunities, and add ESG profile risks into collective savings prospectuses	AMF
		Develop a plan to train retail advisors on investment product ESG risks and opportunities	FBF, FFA, AFG, AMAFI and CNCGP
8	Make sustainable saving products more transparent and systematic	All products sold within employee savings schemes should integrate ESG issues	Economy and Finance Ministry
		Create a default option of integrating ESG issues in savings products (such as life insurance and Plan d'épargne en actions)	Economy and Finance Ministry
		Improve consumer understanding of sustainability labels and extend coverage to all asset classes	Economy and Finance Ministry and Environmental and Social Transition Ministry
		Widen the use of funds collected through the Livret Développement Durable et Solidaire to finance projects with positive impacts on climate and other sustainability areas	Economy and Finance Ministry
9	Enhance the efficiency of dialogue between investors and issuers	Implement proposals on transparency in the (proxy) voting process	AMF
		Lower ownership requirements to file a shareholder resolution	AMF
		Develop an engagement policy for investors, with an annual report on the implementation of the policy also published	Economy and Finance Ministry
		Create a forum for investors to discuss sector-specific ESG issues with NGOs and issuers	ORSE

### Strengthen collaboration between public and private actors

	Recommendation	Action	Who
10	Reinforce France's leadership in responsible investment and alignment with the Paris Agreement	Clarify the responsibilities and objectives of responsible investment for members of the High Council for Financial Stability	Banque de France, ACPR, AMF, ANC
		Create a forum to coordinate private and public actors' work on methodologies for (i) climate risks assessment and (ii) alignment with a 2°C objective	Finance for Tomorrow
		Publish the analyses conducted to supervise Article 173's implementation, as well as non-confidential information for each investor involved	ACPR and AMF
		Set up a working group to define how TCFD recommendations will be integrated by financial institutions and companies	ACPR and AMF

