

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

Q&A

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This document answers various questions received by the offices of the Swiss Bankers Association (SBA) on the 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 (the “Guidelines”). ESG stands for environmental, social and governance. It is intended to answer questions on the context as well as specific articles with a view to helping members implement the Guidelines. The Q&A is non-binding and not to be construed as a departure from the principles-based approach of the Guidelines.

Contents

Questions on the update of the Guidelines	3
Questions on the clarification of the Guidelines for investment advice (October 2023)	3
General questions	3
Purpose, scope of application and guidelines for implementation (Arts. 1-7)	4
Definitions (Art. 8)	5
Duty to provide information (Art. 10)	6
ESG risks	9
Assessment of ESG preferences (Art. 11)	10
Matching (Art. 12)	12
Rendering of account (Art. 14)	13
Training and professional development (Art. 15)	14
Audit (Art. 16)	15
Final provisions (Art. 17)	15
Potential consequences for members of failure to comply with the Guidelines	15
Relationship to EU regulation	15
Further initiatives and activities on the part of the industry and the authorities	17

Questions on the update of the Guidelines

1. What does the new version of the Guidelines change?

The updated Guidelines now reflect the [Federal Council's position on the prevention of greenwashing in the financial sector](#) of 16 December 2022. In particular, this concerns defining uniform minimum standards for labelling an investment solution as sustainable (Art. 1 para. 2), which is done in Art. 8 para. 1 let. i (sustainable investment solution). It also affects the duty to provide information (Art. 10), rendering of account (Art. 14) and auditing (Art. 16).

The changes enter into force on 1 September 2024 and are subject to transition periods (Art. 17).

Questions on the clarification of the Guidelines for investment advice (October 2023)

2. What did the clarification of the Guidelines in October 2023 change?

The Guidelines now clearly state that investment advisory services that do not take account of the client portfolio (also referred to as transaction-based investment advice) do not fall within their scope, meaning that no ESG preferences need to be recorded for such services. Execution-only and portfolio management services are not affected.

3. Why was this clarified?

The clarification is intended to avoid creating a regulation that goes beyond the scope of the FinSA and to ensure that no “Swiss finish” is added to the applicable EU law.

4. Our institution already applies the Guidelines to transaction-based investment advice. Do we have to stop this?

The Guidelines represent minimum standards. As such, applying them to transaction-based investment advice is not wrong, it is simply not required.

Financial service providers are free to decide for themselves whether they continue to apply the guidelines analogously to transaction-based investment advice or adjust their practices in line with the minimum standards.

General questions

5. Fundamental question on the regulatory concept: why has ESG not been written into the Financial Services Act (FinSA)?

The FinSA in fact already covers ESG. Its principles-based wording means that the rules of conduct it contains, in particular those on providing information, advice and documentation and rendering of account, must already be met in full with respect to all relevant aspects – including sustainability risks, for example. The Guidelines simply flesh out the FinSA rules in relation to ESG preferences and risks.

6. Terminological/conceptual question: why do the Guidelines use the term “ESG” and not “sustainability”? For example, do “ESG preferences” (Guidelines) and “sustainability preferences” (Markets in Financial Instruments Directive/MiFID II) mean the same thing?

The first version of the Guidelines from 2022 was an evolution of the Guideline for the integration of ESG considerations into the advisory process for private clients, which was published in 2020 and favoured terms commonly used in asset management. ESG preferences are defined in Art. 8 para. 1 let. c. ESG preferences under the Guidelines and sustainability preferences under MiFID II may be identical, but they do not have to be. This means that it is possible to ask clients about their ESG preferences without applying the categorisation required under MiFID II. The updated Guidelines now differentiate between the terms “ESG”, which is more broadly defined, and “sustainable”, which is defined as a subset of ESG (see also questions 15 and 17 under “Definitions (Art. 8)”).

7. Does the SBA intend to publish best practices for applying the greenwashing guidelines?

Given the fast pace of change and the fact that the Guidelines are deliberately principles-based, the SBA does not intend to publish best practices. However, examples of coherent implementation will be presented in SBA webinars on this subject.

Purpose, scope of application and guidelines for implementation (Arts. 1-7)

8. Is it possible to exclude compliance with the Guidelines under contract law?

The Guidelines are to be understood as voluntary self-regulation that is binding for SBA member banks, and diligent compliance with the obligations set out therein should be seen as an industry standard. As such, civil courts may use them as a reference in assessing due diligence obligations under civil law. Member banks must therefore not exclude compliance with the Guidelines in their contracts with clients (see Art. 2 para. 1).

9. Do the Guidelines also apply to foreign branches of SBA member institutions? If so, do they apply to all of a foreign branch’s clients, regardless of domicile, or only when financial services are provided to clients in Switzerland (as with the territorial scope of application of the FinSA according to Art. 2 para. 1 of the Financial Services Ordinance (FinSO))?

Art. 2 para. 1 of the Guidelines states that the territorial scope of application of the FinSA and the FinSO applies analogously.

Use case 1 (out of scope)	Use case 2 (in scope)
Bank domicile: Switzerland	Bank domicile: Switzerland
Branch domicile: Hong Kong	Branch domicile: Hong Kong
Client domicile: Hong Kong	Client domicile: Switzerland

This means that the Guidelines only apply in use case 2 above. Financial service providers are free to take measures that go beyond the scope of the Guidelines.

10. Do the Guidelines also apply to portfolio managers that joined the SBA in order to affiliate to a Swiss ombudsman and thus fulfil the requirements for FINMA authorisation under the Financial Institutions Act (Art. 16 FinIA)?

The Guidelines apply to all members that provide investment advice taking account of the client portfolio or portfolio management. The other financial services listed in Art. 3 let. c FinSA are excluded from the Guidelines (Art. 3).

11. How do the Guidelines affect banks' portfolio management activities?

As stated in Art. 2 para. 3, the 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. This means portfolio management in general, but specifically segregated portfolio management.

12. Art. 2 para. 3 mentions the Asset Management Association Switzerland (AMAS) self-regulation on transparency and disclosure for sustainability-related collective assets. Does the AMAS self-regulation also apply to SBA members?

While it is possible to affiliate to the AMAS self-regulation without being a member of AMAS (see [here](#) for further information), SBA members that are not also members of AMAS are not subject to the AMAS self-regulation. The reference to this self-regulation is included for information purposes, since it reflects the Federal Council's position on the prevention of greenwashing for providers and/or managers of collective assets.

Definitions (Art. 8)

13. Do ESG criteria (Art. 8 para. 1 let. b) include all-encompassing ESG investment criteria?

ESG criteria are never all-encompassing, they always concern specific ESG aspects.

14. Are ESG approaches the same as sustainable investment approaches?

Although the terms used are different, "ESG approaches" (defined in Art. 8 para. 1 let. d) and "sustainable investment approaches" as defined in the AMAS self-regulation and the AMAS/Swiss Sustainable Finance (SSF) publication "Recommendations on transparency and minimum requirements for sustainable investment approaches and products" are to be understood as having the same meaning. The use of different terms is caused by the SBA Guidelines drawing a distinction between ESG investment solutions and sustainable investment solutions.

15. When can investment solutions be labelled as "sustainable", and how are these different from ESG investment solutions?

This is set out in Art. 8 para. 1 let. i, which states that an ESG investment solution, i.e. an investment solution that takes account of ESG criteria, can be presented and/or labelled as sustainable if it additionally pursues at least one of the following investment objectives in addition to its financial objectives:

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- compatibility (including transition) with one or more specific sustainability goals or
- contribution to one or more specific sustainability goals.

This means that ESG investment solutions intended only to reduce ESG risks or optimise financial performance pursue a purely financial investment objective and can therefore no longer be labelled as sustainable under the Guidelines if they do not additionally pursue one of the above investment objectives.

A reference framework and specific indicators must be used when defining sustainability goals. The following may serve as reference frameworks:

- criteria published by a Swiss or foreign government authority;
- criteria developed by a non-government organisation;
- criteria that reflect generally recognised industry practices; and/or
- criteria developed by the financial service provider itself.

The indicators should be used to measure and monitor the sustainability goals.

The AMAS self-regulation on transparency and disclosure for sustainability-related collective assets contains an appendix listing examples of sustainability goals and reference frameworks and mentions industry practices that can be considered as being compatible with or contributing to sustainability goals.

The AMAS/SFF publication “Recommendations on transparency and minimum requirements for sustainable investment approaches and products” goes further by offering detailed recommendations as to which information (indicators) is relevant to various ESG/sustainability approaches.

16. Does an investment solution qualify as sustainable if it pursues the Paris Agreement emissions reduction target and/or complies with the SBTi criteria and has a portfolio made up of collective investment schemes that also pursue the same emissions reduction target in line with the sustainable investment approach of climate alignment set out in the AMAS self-regulation?

If the financial service provider makes it clear how the investment solution pursues climate alignment and/or contributes to the achievement of one or more specific sustainability goals, and if the products invested in or recommended do likewise, the investment solution may be referred to as sustainable. Appendix 3 of the AMAS self-regulation offers a guide to classifying sustainability approaches by alignment or contribution. This may also be used in conjunction with the Guidelines.

Duty to provide information (Art. 10)

17. Are financial institutions required to educate their clients on ESG issues if they are not familiar with the subject despite having received general information on ESG characteristics and risks?

According to Art. 10 para. 2, clients must be informed as part of the general risk disclosure process about the ESG risks and characteristics associated with financial instruments or services involved in ESG investment solutions. In general, the duty to provide information under Art. 10 of the Guidelines must also be fulfilled. The purpose of this is to enable clients to understand the relevant ESG characteristics and thus tolerate the risks associated with ESG investment solutions. Financial service providers should therefore ensure that

clients are in a position to make an informed decision. In view of the range of different business models employed by banks in Switzerland, exactly how they do so is left up to them.

18. How can the fact that sustainable investments tend to perform as well as traditional ones be explained to clients in a simple manner?

One possibility could be to use academic studies by financial experts that investigate the relationship between risk/return metrics and sustainability. The assumptions made, methods used and underlying data, among other things, should be taken into account here. Training the staff responsible for informing and advising clients is thus of vital importance. Only if staff are trained well and have the requisite knowledge and understanding of the subject can they provide their clients with advice that is easy to understand. With this in mind, the Guidelines contain detailed requirements in relation to training and professional development (Art. 15). However, the specific training provided may vary, depending on the financial service provider and its business model. Training and professional development may focus on different areas in line with an employee's precise function.

19. How should the sustainability goals and the ESG approaches used to pursue them under Art. 10 para. 4 be measured?

In its report of 16 December 2022, the Federal Council states that information on the measurement of sustainability goals must always be provided for financial services labelled as "sustainable". With this in mind, the self-regulation stipulates that the sustainability goals and the ESG approaches used to pursue them as well as the measurement methods and indicators employed must be described in the documentation for a sustainable investment solution (Art. 10 para. 4).

Regulatory frameworks for defining sustainable financial instruments and services are currently being developed, but there is currently no globally recognised method for measuring the degree to which a financial service or an investment solution labelled as "sustainable" is actually sustainable. In addition, the availability of data poses a challenge. This situation will of course improve gradually over time. In line with the lack of reference frameworks, the legal situation is also uneven.

An objective, meaningful measurement method must be applied in order to close the gaps that still persist. By describing the measurement method they use, financial service providers create clarity and transparency and thus make it easier to compare different investment solutions for which the same method is used. As the availability of data improves, the measurement methods used can also be updated and improved, resulting in greater transparency and comparability.

Specifically, key performance indicators should be used for the activities of the companies in which investments are made or other assets. The measurement method used should be adequately described, including, for example, an explanation of the basis on which the relevant assets or investments are categorised as well as the criteria according to which the companies and states behind the assets used are assessed.

20. Does a minimum proportion of sustainable investment instruments have to be defined for investment solutions labelled as "sustainable"?

To prevent greenwashing, it is essential for financial service providers to explain to their clients how sustainability is defined for a specific investment solution and the extent to which that investment solution is actually sustainable under that definition. "To this end, a clear distinction should be made between sustainability risks and impacts in communication with investors. It is necessary to state in an understandable way the extent to

• Swiss Banking

which an investment product minimises sustainability risks, is aligned with sustainability goals and/or effectively makes a contribution to sustainability goals.” (From Sustainable finance in Switzerland – Areas for action for a leading sustainable financial centre, 2022–2025, [Federal Council report \(2022\)](#)).

According to Art. 10 para. 5, clients must be informed about the minimum proportion of sustainable investments. The “sustainable” label attached to a financial service must also be credible with regard to this minimum proportion.

This transparency prevents potential misinterpretations on the part of clients, particularly since it is they who ultimately decide whether and to what extent sustainable investment instruments are to be used.

In-depth explanation:

With standardised portfolio management mandates in particular, it is advisable to inform clients about the purpose of applying sustainability/ESG criteria, precisely how these are used to select financial instruments, and the advantages and risks that may be associated with the criteria employed for exclusion (including threshold values) and analysis. Clients can be provided with this information, which should be integral to an ESG investment solution, via a website, a separate document or in another suitable form.

Since the use of sustainability/ESG criteria can involve different challenges or even restrictions for different asset classes, any differences in the extent to which they are used, including where they are not used at all (e.g. in relation to cash and cash equivalents) should be communicated to clients in a clear and easy-to-understand way. Since it can be assumed that clients expect an investment solution labelled as sustainable to use sustainability/ESG criteria as a matter of principle, it makes sense to give reasons for exceptions – methodological restrictions or financial appropriateness, for example.

Practical examples:

- The sustainable portfolio management mandate is implemented as standard using [a minimum of X% of] collective investment schemes that have been qualified as sustainable in a preliminary internal analysis process. [The internal analysis process and the criteria used should be explained elsewhere in the brochure.]
- With the “direct investments” option, the following exclusion criteria are used: ... Furthermore, these must each have a sustainability rating from ... up to and including ...
- No ESG/sustainability criteria are used for the following asset classes/financial instruments due to the lack of methodological basis: ...

21. According to Art. 10 para. 5, a sustainable portfolio management mandate must specify the minimum proportion of sustainable investments. What is the minimum percentage of sustainable investments that a portfolio under discretionary management must contain?

Given their principles-based approach, the Guidelines do not define a minimum proportion. Instead, this should be agreed between the client and the financial service provider as part of the portfolio management mandate. Each institution is responsible for defining a minimum proportion of investments that must meet the stipulated sustainability criteria. In practice, this should be aligned with the investment objective, the sustainability goal(s) and approaches and the indicators employed. The way this is communicated to clients is also subject to the [Federal Act on Unfair Competition \(UCA\)](#), in particular Art. 3 para. 1 let. b (and let. x in connection with climate-related information).

22. In the case of sustainable investment advice, must the contract and/or supporting documents specify a minimum percentage of sustainable investments? If so, what is the minimum percentage?

Financial institutions are free to set their own minimum percentage of sustainable investments. This must always be disclosed transparently to clients. As mentioned under question 21 above, the way this is communicated to clients is also subject to Art. 3 para. 1 let. b (and let. x in connection with climate-related information) of the Federal Act on Unfair Competition (UCA).

23. Art. 10 para. 5 sets out requirements for the portfolio management mandate. Does this also affect supporting documents?

Documents supporting the portfolio management mandate may also reflect these requirements.

24. Art. 10 para. 5 states that 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). What does this mean exactly?

The use of different asset classes or investment instruments leads to variations in performance and thus changes in the respective portfolio allocations. This can also change the proportion of sustainable investments, possibly causing it to fall below the minimum. This rule ensures that such situations are permitted unless otherwise agreed.

ESG risks

25. Will the SBA brochure “Risks Involved in Trading Financial Instruments” be updated? If so, when?

A section on ESG risks has already been added to the SBA brochure and is available here: [ESG risks in the risk brochure](#).

26. Is informing clients specifically about ESG risks a requirement?

This is set out in Art. 10 para. 2 of the Guidelines.

27. Would it be possible to quote clearer examples of ESG risks?

The wording of the Guidelines is deliberately open and principles-based and thus refrains from citing specific ESG risks. This makes it possible to accommodate the variety of business models and processes employed by the diverse range of financial service providers that are members of the SBA. The updated SBA brochure “Risks Involved in Trading Financial Instruments” includes ESG risks and goes into much greater detail on the subject than Art. 8 para. 1 let. f of the Guidelines.

28. What is the difference between ESG preferences and ESG risks?

An investor's ESG preferences concern his or her personal values and priorities with regard to environmental, social and governance factors when selecting investments and reflect the desire to support specific causes or practices. ESG risks, meanwhile, are the potential negative impacts of environmental, social and governance factors on the financial performance or reputation of these investments and include climate change, working practices and failures of corporate governance. ESG preferences guide investment decisions in line with personal values, whereas understanding and minimising ESG risks are decisive for overcoming potential disadvantages and ensuring sustainable returns.

Assessment of ESG preferences (Art. 11)

29. Do ESG preferences have to be recorded for all investment clients before they choose a specific investment solution, or do they only have to be recorded for investment clients who have opted for portfolio management or for investment advice that takes account of their portfolio?

Art. 3 of the Guidelines states that they relate to investment advice taking account of the client portfolio and to portfolio management. They do not apply to the other financial services listed in Art. 3 let. c FinSA. Execution-only services (Art. 3 let. c point 2 FinSA) and, following the clarification, transaction-based investment advice do not fall within the scope of the Guidelines. The risk with recording ESG preferences in the context of execution-only services or transaction-based investment advice is that clients might then have a false expectation that ESG criteria will be taken into account in providing the financial service.

30. What are the duties under the Guidelines as regards assessing appropriateness and suitability in relation to ESG aspects?

These are set out in Art. 11. The assessment of suitability that has to be conducted for investment advice or portfolio management applies equally to ESG investment solutions. The assessment of appropriateness only applies to transaction-based investment advice, which is not covered by the Guidelines following the clarification.

31. With regard to updating ESG preferences in investor profiles, does the bank have to ask clients about their ESG preferences on a regular basis, or is it enough to address the issue on an ad-hoc basis when providing advice?

The general provisions of the FinSA apply here, subject to any necessary changes.

32. According to Art. 11 of the Guidelines, financial service providers must enquire about their clients' ESG preferences. Do they have to enquire about sustainability preferences even if they do not offer any sustainable investment solutions?

Financial service providers are merely required to record clients' ESG preferences. In doing so, they must not create the impression that ESG investment solutions are sustainable. The distinction between ESG preferences and sustainability preferences is explained in more detail under question 6 above.

33. Do ESG preferences still have to be recorded if only sustainable investment solutions are offered?

Yes, ESG preferences must be recorded in accordance with Art. 11, even if the investment solutions offered are exclusively sustainable (but see question 30).

34. Do ESG preferences still have to be recorded if a bank offers neither ESG nor sustainable investment solutions?

Yes, ESG preferences must be recorded in accordance with Art. 11, even if no ESG or sustainable investment solutions are offered. If a client expresses any ESG preferences, the advisor must explain that the financial service provider does not offer any suitable products or services (see Art. 12 para. 2).

35. Are there specific criteria regarding the method and granularity with which ESG preferences are recorded?

The wording of the Guidelines is deliberately open and principles-based, including when it comes to recording clients' ESG preferences. This makes it possible to accommodate the variety of business models, investment solutions and processes employed by the diverse range of financial service providers that make up the SBA's membership. Existing FinSA-compliant practices should be updated to include ESG preferences and risks. The level of detail with which ESG preferences are categorised, for example, can vary from very high to binary without affecting compliance with the Guidelines. This makes sense with regard to the design of sustainability offerings. If the product range is relatively small, there is little to be gained from recording ESG preferences with a high level of detail.

The exact manner in which preferences are recorded (in accordance with Art. 11) has thus consciously been left to the individual institution's discretion.

36. Does the following ESG profiling system make sense: neutral (i.e. no ESG preferences), interested (i.e. investments with an ESG approach but not labelled as sustainable) and highly interested (i.e. sustainable ESG investments)?

The extent to which this makes sense depends on many factors, including the individual design and scope of the investment solutions offered and the processes involved, in particular with regard to categorisation and matching. Ultimately, therefore, each financial service provider can and should answer this question for itself.

With regard to matching, it can be helpful to clarify which sustainability goals (alignment or contribution) a client with ESG preferences wishes to pursue. AMAS, together with SSF, has published Recommendations on Transparency and Minimum Requirements for Sustainable Investment Approaches and Products, which should be helpful in this respect.

37. When assessing ESG preferences, do clients also have to be asked which ESG characteristics or criteria should be applied?

As stated under question 35 above, there are no precise requirements governing the exact manner in which clients' preferences are recorded.

It makes sense for a financial service provider to derive the range of possible ESG preferences from its product and service offering. That way, the two can be matched easily (Art. 12 para. 1). Under the duty to provide information (Art. 10), however, clients must be informed about the extent to which their ESG preferences are taken into consideration in the investment solution offered.

38. Some ESG preferences, such as impact through private equity, cannot be implemented for certain clients due to their risk profile or investment objectives. How is it possible to prevent clients' expectations from being too high as a result of their ESG preferences being assessed?

Impact investing is not an ESG preference but an ESG approach governing how ESG criteria are integrated into the investment process.

Recording preferences (in accordance with Art. 11) that go beyond the scope of the products and services offered makes little sense and should be avoided in practice. Informing clients (Art. 10) also plays a key role here. If they understand what is being offered to them or are told why certain products are not available to them, their expectations will be easier to manage.

39. ESG preferences must be assessed (Art. 11). In the case of portfolio management mandates, is it possible simply to refrain from offering non-ESG solutions?

The Guidelines have no influence over banks' business models, but they are binding.

Matching (Art. 12)

40. How are clients' ESG preferences matched with products and services?

This is up to each institution. It makes sense for a financial service provider to derive the range of possible ESG preferences from its product and service offering. That way, the two can be matched easily (Art. 12 para. 1). Under the duty to provide information (Art. 10), however, clients must be informed about the extent to which their ESG preferences are taken into consideration in the investment solution offered.

41. Can a financial service provider offer a sustainable investment solution with its own sustainability goal that exclusively comprises financial products from third parties?

Financial service providers are free to decide whether they use their own investment products and/or those of third parties in the investment solutions they offer. However, they must always disclose the underlying ESG criteria and the extent to which each product matches them. Compliance with [Art. 8 para. 2 let. c FinSA](#) and [Art. 10 FinSO](#) must be ensured.

42. When the ESG preferences clients define cannot be implemented exactly in advisory mandates, clients must be informed about any mismatches before they are implemented. How is this done for portfolio management mandates? Do clients also have to be informed in advance of every relevant transaction when an asset class that does not match their chosen ESG preferences is added for tactical reasons, or is it sufficient to inform them at the start of the mandate that mismatches are possible in exceptional circumstances?

Compliance with the contractually agreed terms and conditions of a portfolio management mandate is obligatory. This includes the ESG preferences. Deviations, including for tactical reasons, are not permitted. The mandate itself must therefore allow for instruments that do not explicitly match clients' ESG preferences to be used – only temporarily – for tactical reasons.

43. Do mismatches have to be communicated before every transaction, or is it sufficient to communicate them when the investment solution is agreed?

If the financial service provider wishes to recommend an investment solution to the client that does not match the latter's ESG preferences, the client must be informed of this mismatch before signing a contract.

According to Art. 10 para. 4, clients must be informed about how ESG investment solutions take their ESG preferences into account. Transactions must stay within this scope. Any mismatches must be communicated to the client before a transaction is executed.

Rendering of account (Art. 14)

44. Does the fact that ESG preferences are taken into consideration have to be documented and/or communicated to clients periodically, or is it sufficient to do so on request?

This is handled in accordance with the FinSA. According to Art. 14 para. 2 of the Guidelines, financial service providers render account to clients with ESG preferences on request as to whether the ESG investment solutions or financial instruments offered match their ESG preferences. The requirements for sustainable portfolio management mandates are set out in Art. 14 para. 3.

45. Is it correct that dedicated sustainability reports must be compiled for sustainability-related portfolio management mandates, whereas, in the case of investment advice, it is only necessary to report on how ESG preferences are implemented, and no dedicated sustainability report is required?

Since the process of recording ESG preferences under Art. 10 para. 4 entails documenting the sustainability goals pursued by sustainable investment solutions (alignment and/or contribution), the ESG approaches used for this purpose and the measurement methods and indicators employed, it is advisable to provide clients who have ESG preferences with appropriate sustainability reports for investment advice as well.

46. Does “best in class” mean that a portfolio must show superior ESG performance (e.g. ESG rating, climate rating, temperature) or that the provider must make a commitment to achieving superior ESG performance?

In the case of a sustainable investment solution, the financial institution is required to prove that the ESG investment solutions offered match the client’s ESG preferences. This in turn depends on the sustainability characteristics the institution has defined for the investment solution being offered – in particular with regard to sustainability goals and indicators.

47. Can reports on standardised portfolio management mandates also be provided via a website or a separate document or in another suitable form?

A standardised report may be provided via a website or a separate document or in another suitable form. If a client requests an individual report, the standardised report must be altered as necessary to reflect the client’s portfolio.

Training and professional development (Art. 15)

48. How does the SBA support its members in relation to the training and professional development requirements set out in the Guidelines (Art. 15)?

With regard to training and professional development, the SBA pools the efforts of all financial sector participants and links them to the education market.

The 2023 reform of commercial training has defined new learning objectives for basic training and unlocked synergies for integrating sustainability into basic training via the network of education providers in the industry and network partners. In terms of professional development, the SBA has created new communication channels to inform education providers about current topics with relevance for the financial centre. The SBA has also proactively supported the integration of ESG knowledge into SAQ certification for client advisors. It is working with SSF and partner associations in other industries to advise professional development providers on how to integrate the Sustainable Development Goals as well as the new self-regulation.

To find out more about what the SBA’s self-regulation means for skills development, please click [here](#).

49. Is there a body that checks whether the training and professional development requirements (Art. 15) are being met, or is the financial service provider responsible for doing so itself?

The Guidelines do not state whether or not the training and professional development in question should be certified. Art. 15 para. 2 stipulates that client advisors need to obtain appropriate training and lists topics that should be included in such training.

The specific form and content of training and professional development may vary depending on the financial service provider and its business model and may focus on different areas in line with an employee’s precise function. The question of whether training or professional development meets the FinSA requirement for ensuring that staff possess the necessary skills, knowledge and experience to perform their work is left to the individual financial service provider’s discretion. The financial service provider can also decide for itself which form they take (e.g. in-house training course or external education provider) and whether or not they should be certified.

Audit (Art. 16)

50. What exactly does “in the external regulatory audit” mean?

Since the Guidelines are voluntary self-regulation (i.e. not recognised by FINMA under supervisory law), compliance with them **cannot** be verified by the external auditors **as part of** the regulatory audit but must instead be verified **independently of it**.

51. Are there requirements as to what must be included in the audit report?

The purpose of the audit is to ascertain whether the requirements of the self-regulation have been adequately met. It must take account of the organisational and practical circumstances of the organisation in question and focus on material aspects. The audit report should provide a brief and easily understandable summary of the audit's findings.

Final provisions (Art. 17)

52. What do the duties regarding documentation in Art. 10 paras. 4 and 5 mean for existing clients?

According to Art. 10 paras. 4 and 5 of the Guidelines, banks are obliged to provide information on sustainability in their documentation as well as in the contract governing the portfolio management mandate or a place specified in the contract. This applies for both existing and new clients from the date on which the revised Guidelines enter into force.

Potential consequences for members of failure to comply with the Guidelines

53. What potential consequences do members face if they fail to comply with the Guidelines?

As with a contract, SBA members are obliged to comply with the Guidelines. If they fail to do so, they face risks to their reputation as well as various legal risks. For example, the supervisory authority FINMA could take action based indirectly on the requirement to assure proper business conduct. Self-regulation also serves as a measure of diligence and an industry standard in the specific area it regulates and can therefore be used as such by a court of law in the event of a dispute. This applies to providers in other markets as well as members of the SBA.

Relationship to EU regulation

54. What common ground do the FinSA / SBA Guidelines share with EU regulation such as MiFID II and the Sustainable Finance Disclosure Regulation (SFDR), and how do they differ?

The SBA Guidelines apply in principle to both portfolio management and (portfolio-based) investment advice. They are based on the FinSA regulatory concept and set out the duties relating to financial services in line with this.

• Swiss Banking

Investment advice and portfolio management are also the only financial services regulated from a sustainability standpoint in the context of the EU regulation. In order to avoid a “Swiss finish”, the SBA Guidelines are aligned in particular with the EU’s SFDR and MiFID II. MiFID II is the reference framework for assessing ESG preferences (as well as rendering account of those preferences) and the related matching. The SFDR is the reference framework for disclosing and rendering account of the sustainability approaches used. The transparency regime under Arts. 8 and 9 SFDR applies to “financial products”, which include discretionary portfolio management mandates but not pure investment advisory mandates.

55. Is it true that the requirements of the SBA self-regulation (in terms of both content and deadlines) are met if compliance with the MiFID II sustainability rules is assured?

The Guidelines state that their requirements are deemed to have been met if a financial institution meets the relevant EU standards (Art 4 para. 3), which include MiFID II. MiFID II is only part of the EU’s standards on ESG. All institutions are therefore advised to compare the EU regulations they comply with very carefully against the SBA’s self-regulation.

56. Is it not a contradiction that there is no need to act if compliance with the EU standards is assured (Art. 4 para. 3), but – for example – clients still need to be informed about ESG risks?

There is no universally applicable answer to this question. Institutions are advised to examine whether compliance with the EU standards also constitutes de facto compliance with the SBA’s self-regulation. If this is not the case, the additional requirements under the Guidelines must also be met.

57. In the EU, ESMA is currently finalising ESG guidelines that will apply to institutions that are subject to MiFID II. Are any (significant) differences relative to the SBA Guidelines to be expected here?

The self-regulation is reviewed periodically in order to ensure, among other things, that any conflicts with applicable regulations can be avoided.

58. The self-regulation does not recommend differentiating between ESG risk minimisation and positive impact in ESG preferences. The EU does differentiate under Arts. 6, 8 and 9 of the SFDR. Should this not be factored into the self-regulation as well, especially with a view to avoiding accusations of greenwashing?

According to Art. 4 para. 2, institutions are free to implement more comprehensive measures than those prescribed in the Guidelines.

59. Is the general trend towards adopting EU standards or rather developing specific regulations from the principles-based SBA Guidelines?

The reference to EU standards in Art. 4 para. 3 is intended to avoid the need for financial service providers that also operate in the EU to introduce separate processes for similar standards. The Guidelines should thus not go beyond the EU regulation or conflict with existing legislation.

The advantage of principles-based wording, which is the norm in Switzerland, is that it can accommodate dynamically evolving legislation. The rules-based regulation that is typical in the EU, on the other hand, is

less flexible because it only ever governs known aspects in detail, leaving no room for interpretation or evolution.

The SBA is convinced that the pros outweigh the cons for principles-based regulation in an ever-changing environment because they allow more space for useful innovation rather than reducing everything to the lowest common denominator.

60. Are there plans to introduce a product classification like that set out in the SFDR, for example?

The SFDR's purpose is to regulate disclosure, not to provide a means of classifying products. The Guidelines now set out the conditions under which an investment solution may be labelled as sustainable and focus on the related duties at the point of sale. Financial service providers may use product classifications in the advisory process, but there are no rules governing this. The AMAS self-regulation contains an appendix listing examples of approaches currently used in the marketplace that can be considered as being compatible with or contributing to sustainability goals.

Further initiatives and activities on the part of the industry and the authorities

61. Unlike the EU regulations, the SBA Guidelines only cover services, not products. How are the Guidelines coordinated with other industry and federal government initiatives?

The SBA's self-regulation "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" covers financial services in the advisory process, i.e. at the point of sale.

AMAS published self-regulation of its own on 26 September 2022 on transparency and disclosure for sustainability-related collective assets and has since updated this. It is focused on the level of financial instruments. Both pieces of self-regulation adequately reflect the Federal Council's position on the prevention of greenwashing in the financial sector, published on 16 December 2022.

The texts produced by the SBA (Guidelines), AMAS and the federal government have been coordinated with each other as much as possible with regard to their terminology and do not conflict or compete with each other. They are in fact intended to be mutually complementary. This includes the Swiss Climate Scores, which were developed by the federal government in cooperation with the industry.

62. How does the SBA view SSF's Practitioners' Guide on the Integration of Sustainability Preferences into the Advisory Process for Private Clients?

In contrast to the SSF [Practitioners' Guide](#), self-regulation is binding. The Guide is a practical aid that overlaps with the Guidelines in some points. These were taken into account in drafting the Guidelines (e.g. terms and definitions).

63. What progress has been made with the Swiss Climate Scores? What are the plans for putting them into practice?

The Swiss Climate Scores comprise various indicators intended to create transparency with regard to the alignment of investments with the Paris Agreement on climate change. AMAS and SSF have already drafted specifications and implementation aids for this purpose together with their members. These were published on 5 October 2022 during Building Bridges Week in Geneva (see [here](#)).

The Federal Council announced the further development of the Swiss Climate Scores in December 2022 (see [here](#)). Some points were clarified, and new, optional indicators were added. The SBA actively encourages the banking industry to use the Swiss Climate Scores.

64. Are there any nationwide initiatives in Switzerland to define ESG investments?

The Federal Council published its position on the prevention of greenwashing on 16 December 2022. It describes which objectives financial products and services must pursue in addition to their financial investment objectives in order to be labelled as sustainable. The updated SBA Guidelines reflect this.

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