

## SUSTAINABLE FINANCE IN SWITZERLAND – THE GREENWASHING RISK

*On 16 December 2022, the Swiss Federal Council published its position on the prevention of greenwashing in the financial sector, setting up a working group to come up with next-step proposals by the end of September 2023. In this article we consider recent developments in sustainable finance and how they may give rise to legal claims.*

Sustainability is a significant challenge for financial markets – be it from the risk posed by climate change to market stability,<sup>1</sup> or from customer pressure on financial service providers for sustainable investment management strategies for their portfolios and/or more environmental, social and governance (ESG)-rated products.<sup>2</sup>

The Swiss Financial Market Supervisory Authority (“**FINMA**”), the Swiss Bankers Association (“**SBA**”), the Asset Management Association Switzerland (“**AMAS**”) and Swiss Sustainable Finance (“**SSF**”) have all attempted to address such risks by publishing rules and guidelines on sustainable investments.<sup>3</sup>

The resulting regulatory jungle of intricate non-binding recommendations, rules and guidance is complicated for clients and financial service providers alike – and conducive to greenwashing. Investigations by FINMA clearly show that greenwashing practices can be seen in the distribution of financial products and services, with providers often making vague or even misleading statements about their products.<sup>4</sup> Thus,

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<sup>1</sup> FINMA Guidance 01/2023, 24 January 2023: <https://www.finma.ch/en/news/2023/01/20230124-meldung-am-01-2023/>.

<sup>2</sup> FINMA Guidance 05/2021, 3 November 2021: <https://www.finma.ch/en/news/2021/11/20211103-finma-aufsichtsmittteilung-05-21/>.

<sup>3</sup> Swiss Banking: <https://www.swissbanking.ch/en/topics/sustainable-finance/greenwashing>

<sup>4</sup> FINMA Guidance 05/2021, 3 November 2021.

the first major cases of greenwashing are beginning to emerge in Europe causing reputational damage to well-known actors.<sup>5</sup>

### **1.1 Potential risks that could lead to litigation for greenwashing**

Switzerland currently has no legislative or regulatory requirements on transparency or compliance with specific sustainability criteria for financial services.<sup>6</sup>

As a result, financial service providers are at high risk from accusations of greenwashing at both fiduciary and product level. These risks can be notably the following:

- i) Fiduciary level:
  - a) legal and reputational risks for financial institutions due to a lack of clarity about what constitutes a sustainable investment;<sup>7</sup>
  - b) clients being misled about the sustainability of the financial service and ESG risks;
  - c) mismanagement linked to investment advisory and portfolio management services;
  - d) for collective investment schemes, non-implementation of the information about the sustainability approach decided in the investment strategy/policy;
  - e) climate risks related to certain financial products.<sup>8</sup>

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<sup>5</sup> The Washington Post, Shell Discovers That in the Oil Industry Record Profit Isn't Enough, 2 February 2023: [https://www.washingtonpost.com/business/energy/shell-discovers-that-in-the-oil-industry-record-profit-isnt-enough/2023/02/02/a531cdc4-a2eb-11ed-8b47-9863fda8e494\\_story.html](https://www.washingtonpost.com/business/energy/shell-discovers-that-in-the-oil-industry-record-profit-isnt-enough/2023/02/02/a531cdc4-a2eb-11ed-8b47-9863fda8e494_story.html); Financial Times, SEC fines BNY Mellon over ESG in first case of its kind, 23 May 2022: <https://www.ft.com/content/ff0097c4-3f1c-49d8-8189-153fc56aeeb3>.

<sup>6</sup> The Federal Council's position on the prevention of greenwashing in the financial sector, 16 December 2022: <https://www.admin.ch/gov/en/start/documentation/media-releases.msg-id-92279.html#:~:text=2022%20%2D%20During%20its%20meeting%20on,of%20financial%20products%20and%20services>.

<sup>7</sup> The Federal Council's position on the prevention of greenwashing in the financial sector, 16 December 2022.

<sup>8</sup> Dusan IVANOVIC, Yannick WOHLHAUSER, Sustainable Finance in der Schweiz, GesKR, 2022, p. 24.

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- ii) Product level:
- a) clients and investors being misled about the sustainability or contribution to sustainability of financial products;<sup>9</sup>
  - b) terms such as “impact” or “zero” carbon used without any means of measuring or verifying;
  - c) the collective investment scheme makes references to sustainability where:
    - very general information in the fund documents;
    - no sustainable investment strategy/policy is actually pursued;<sup>10</sup>
    - the investment strategy/policy is only deemed sustainable because of widespread exclusionary criteria, without a specific sustainability component beyond this;<sup>11</sup>
    - there is no or only very general information about the corresponding investment strategy/policy and/or the selection of permitted investments, or how sustainability considerations are integrated into the investment decision process. Investors are not able to gain an impression of how sustainability is taken into account due to the lack of detail or transparency;<sup>12</sup>
  - d) The collective investment scheme investment policy is not in line with the sustainability approach pursued (best-in-class approach, approach integrating ESG considerations, stewardship);

Such risks may result in litigation by investors against their managers and advisors, or by investors against collective investment schemes managers and/or collective investment schemes managers against collective investment schemes issuer. The stakes are high for all parties and grounds for litigation will vary greatly, depending on the contractual relationship between investors, managers/advisors, and issuers.

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<sup>9</sup> The Federal Council’s position on the prevention of greenwashing in the financial sector, 16 December 2022.

<sup>10</sup> FINMA Guidance 05/2021, 3 November 2021, p. 4.

<sup>11</sup> FINMA Guidance 05/2021, 3 November 2021, p. 4.

<sup>12</sup> FINMA Guidance 05/2021, 3 November 2021, p. 4.

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*Collective investment schemes*

Here, the issuer, as well as representatives and managers, can be liable for greenwashing for breach of obligations under the Collective Investment Schemes Act (“CISA”).

- the issuer may be liable for using a confusing or misleading name for the collective investment scheme.<sup>13</sup>
- Managers and representatives may be liable for breach of their duties of loyalty, diligence, and information,<sup>14</sup> e.g., where fund managers manage below the sustainability and impact targets announced to FINMA.<sup>15</sup>
- Violation of CISA duties may trigger litigation by the investor and by the supervisory authority,<sup>16</sup> since CISA establishes a civil liability where an obligation is breached.<sup>17</sup>

*Products, bonds, or shares*

Under Swiss law, financial service providers are subject to rules of conduct, including duties of information, advice, and warning *vis-à-vis* their clients.<sup>18</sup>

With regard to climate risk information, Swiss doctrine considers that within the scope of these duties, financial service providers must also adequately take climate risks into account.<sup>19</sup> Indeed, climate risks can mean significant financial risks for investors which is why they must be included in the investment and advisory process in the same way as other risks, that may arise for the client as a result of an investment.<sup>20</sup> In this

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<sup>13</sup> Art. 12 para. 1 CISA; FINMA Guidance 05/2021, 3 November 2021, p. 3.

<sup>14</sup> Basler Kommentar Kollektivanlagengesetz, Markus PFENNINGER, Martina NÜESCH, Ad, Art. 20, N. 3. (hereinafter «BSK-KAG »).

<sup>15</sup> FINMA Guidance 05/2021, 3 November 2021.

<sup>16</sup> BSK-KAG, Markus PFENNINGER, Martina NÜESCH, Ad Art. 20 KAG, N. 3.

<sup>17</sup> BSK-KAG, Harald BÄRTSCHI, Andreas von PLANTA, Ad Art. 145 KAG, N.1.

<sup>18</sup> Art. 8 et seq. FinSA.

<sup>19</sup> Dusan IVANOVIC, Yannick WOHLHAUSER, Sustainable Finance in der Schweiz, GesKR, 2022, p. 24.

<sup>20</sup> Dusan IVANOVIC, Yannick WOHLHAUSER, Sustainable Finance in der Schweiz, GesKR, 2022, p. 24.

respect, explicit reference must be made to the financial risk of an investment that is exposed to climate-related physical, regulatory, liability or reputational risks.<sup>21</sup>

With respect to sustainable investment, part of the doctrine considers that there is no duty on financial service providers to take impact investing<sup>22</sup> into account, as such obligation does not automatically arise under either supervisory or mandate law. In such a case, clients would only be able to sue their financial service provider for breach where their contractual agreement makes the impact investment part of the investment or management process. In this case, the relevant financial service provider would also have to take climate impacts into account as part of its duty to inform, advise and warn and, if applicable, its duty to monitor, in the case of asset management contracts.<sup>23</sup>

We do not agree with this approach since the existing legal and regulatory framework already provides for duties of diligence and information. The SBA guidelines set out a minimum industry standard for the financial industry for duties of diligence, loyalty and information in the context of ESG-related investments. Not fulfilling such duties would be a breach of fiduciary duties under Art. 398 of the Swiss Code of Obligations, interpreted in light of the SBA guidelines.<sup>24</sup>

Greenwashing litigation will be based on different grounds, depending on the type of financial product. For funds, investors can use CISA to assert their rights directly against the fund management company, the custodian bank, the auditor and other legal persons<sup>25</sup>, while other products may use the existing Swiss framework, as set out below.

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<sup>21</sup> Dusan IVANOVIC, Yannick WOHLHAUSER, Sustainable Finance in der Schweiz, GesKR, 2022, p. 22.

<sup>22</sup> Dusan IVANOVIC, Yannick WOHLHAUSER, Sustainable Finance in der Schweiz, GesKR, 2022, p. 24.

<sup>23</sup> Dusan IVANOVIC, Yannick WOHLHAUSER, Sustainable Finance in der Schweiz, GesKR, 2022, p. 24.

<sup>24</sup> ATF 122 III 426; Engel Pierre, *Traité des obligations en droit Suisse*, Berne 1997, p. 242.

<sup>25</sup> Art. 145 CISA.

## 1.2 Legal framework

### 1.2.1 Legal framework in Switzerland

Due to the lack of regulatory and legislative requirements on transparency or compliance with specific sustainability criteria for financial services, FINMA considers that its scope for preventing and combating greenwashing is limited. In particular, it lacks specific transparency requirements for sustainability as well as a solid prudential basis for how to proceed at financial product sales points,<sup>26</sup> and currently relies on general regulations in the absence of these.<sup>27</sup>

#### *Requirements for collective investment*

Under CISA, the name of the collective investments must not be confusing or misleading, in particular as to the investments made.<sup>28</sup> FINMA will pay particular attention to information provided about the advertised sustainability characteristics when approving and supervising it. It will ensure that these are appropriately disclosed and will check that investors are not deceived regarding sustainable characteristics.<sup>29</sup>

Moreover, fund documents for collective investment schemes must meet minimum content requirements (Art. 35a of the Collective Investment Schemes Ordinance (“CISO”)<sup>30</sup>. Appendix 6 of the Financial Services Ordinance (“FinSO”)<sup>31</sup> sets out minimum content for collective investment scheme prospectuses – notably the description of the investment objectives, investment policy, permitted investments, investment techniques applied, investment restrictions and other rules applicable to risk management.<sup>32</sup>

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<sup>26</sup> FINMA Guidance 05/2021, 3 November 2021.

<sup>27</sup> FINMA Guidance 05/2021, 3 November 2021.

<sup>28</sup> Art. 12 para. 1 CISA; FINMA Guidance 05/2021, 3 November 2021, p. 3.

<sup>29</sup> FINMA Guidance 05/2021, 3 November 2021, p. 3.

<sup>30</sup> SR 951.311.

<sup>31</sup> SR 950.11.

<sup>32</sup> Appendix 6 FinSO. section 1, para. 1.10.

The name requirements also apply to foreign collective investment schemes offered in Switzerland, which must adopt a name that cannot be confused or misleading.<sup>33</sup> This requirement is one of the conditions for the granting of an authorisation by FINMA.

Persons who manage or represent collective investment schemes or hold the assets of these schemes in safekeeping, and their agents, must fulfil loyalty, due diligence, and disclosure obligations.<sup>34</sup> Fund managers seeking approval from FINMA must inform it on the sustainability targets pursued, their implementation and their intended impact. This enables FINMA to better assess whether there is deception, and to intervene accordingly.<sup>35</sup>

FINMA also focuses on the organisation of the fund – sustainability must be fully integrated into the investment decision-making process, and the entity must have specialist expertise and knowledge in the field of sustainability. The entity must also access, monitor and validate adequately the external sustainability-related data it uses.

#### *Structured products, shares, and bonds*

There are a wide range of sustainable products, but no specific legal text establishing minimum sustainability standards.<sup>36</sup> This is typically the case for structured products and *plain vanilla* financial products such as shares or bonds. Since there is no compulsory disclosure regarding sustainability or on the sustainability ratings of private providers of financial products.<sup>37</sup>

Thus, the investor is currently dependent on the issuing documentation under financial market law.<sup>38</sup> FinSA provides regulation governing the prospectus and the basic information sheet, as well as the associated

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<sup>33</sup> Art. 102 CISA.

<sup>34</sup> Art. 20 para. 1 CISA.

<sup>35</sup> FINMA Guidance 05/2021, 3 November 2021.

<sup>36</sup> The Federal Council's position on the prevention of greenwashing in the financial sector, 16 December 2022.

<sup>37</sup> Dusan IVANOVIC, Yannick WOHLHAUSER, Sustainable Finance in der Schweiz, GesKR, 2022, p. 177.

<sup>38</sup> Dusan IVANOVIC, Yannick WOHLHAUSER, Sustainable Finance in der Schweiz, GesKR, 2022, p. 177.

liability and penalty provisions,<sup>39</sup> thus already containing specific bases for sanctioning deceptive or misleading conduct. However, there are no legal definitions or regulatory requirements for the use of sustainability concepts such as “sustainable”, “ESG” or “green”.<sup>40</sup>

The Swiss Federal Council has acted to ensure that clarity exists for clients and investors making investment decisions about financial products that are described as sustainable.<sup>41</sup> On 16 December 2022, it published its position on the prevention of greenwashing in the financial sector, drawing on the United Nations 2030 Agenda for Sustainable Development (the “**2030 Agenda**”).<sup>42</sup>

Financial products or services that are labelled as sustainable, or as having sustainable characteristics, must pursue at least one of the investment objectives set by the United Nations 2030 Agenda for Sustainable Development, in addition to their financial goals.<sup>43</sup> The application of these goals may take the form of:

- i) an alignment with one or more specific sustainability goals; or
- ii) a contribution to achieving one or more specific sustainability goals.

A financial service or product with an alignment objective aims to be in line with one or several of the 2030 Agenda. Alignment may involve investing exclusively in stocks and bonds of companies that all have

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<sup>39</sup> Art. 69 and 90 FinSA.

<sup>40</sup> Thomas HIRSCHI, Discours lors du colloque sur l’Asset management de la FINMA du 9 novembre 2021, p. 3-4: [https://www.finma.ch/fr/~media/finma/dokumente/dokumentencenter/myfinma/finma-publikationen/referate-und-artikel/20211109-asset-management-fachtagung-keynote-hit.pdf?sc\\_lang=fr&hash=C58F3C28244C28BEC69D75D9EF0364E5](https://www.finma.ch/fr/~media/finma/dokumente/dokumentencenter/myfinma/finma-publikationen/referate-und-artikel/20211109-asset-management-fachtagung-keynote-hit.pdf?sc_lang=fr&hash=C58F3C28244C28BEC69D75D9EF0364E5).

<sup>41</sup> The Federal Council’s position on the prevention of greenwashing in the financial sector, 16 December 2022.

<sup>42</sup> The Federal Council’s position on the prevention of greenwashing in the financial sector, 16 December 2022.

<sup>43</sup> United Nations Sustainable Development Goals : <https://www.eda.admin.ch/agenda2030/en/home/agenda-2030/die-17-ziele-fuer-eine-nachhaltige-entwicklung.html> .

transition plans aligned with a 1.5° Celsius warming compared to pre-industrial levels.<sup>44</sup>

A financial product aimed at contributing to the achievement of a sustainability goal will typically apply an impact investment approach,<sup>45</sup> a credible active ownership approach, or a combination of the two. Impact investments must aim for a credible, causal, and measurable impact.<sup>46</sup>

Financial products and services that aim only at reducing ESG risks or optimising performance are not to be considered as sustainable, as the Federal Council considers that ESG risks are part and parcel of the fiduciary duties of a financial services provider.<sup>47</sup> They can only qualify as sustainable if they pursue one of the investment objectives outlined above.<sup>48</sup>

By 30 September 2023 and based on the position outline by the Federal Council's, the Federal Department of Finance is to present the Federal Council with concrete proposals for setting the prevention of greenwashing into motion.<sup>49</sup>

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<sup>44</sup> The Federal Council's position on the prevention of greenwashing in the financial sector, 16 December 2022.

<sup>45</sup> Impact investment is understood by the SSF as "*Investments intended to generate a measurable, beneficial social and environmental impact alongside a financial return. Impact investments can be made in both emerging and developed markets, and target a range of returns from below-market to above-market rates, depending upon the circumstances. SSF considers impact investments as those having three main characteristics: intentionality, management and measurability*": <https://www.sustainablefinance.ch/en/glossary-content--1--3077.html>.

<sup>46</sup> The Federal Council's position on the prevention of greenwashing in the financial sector, 16 December 2022.

<sup>47</sup> The Federal Council's position on the prevention of greenwashing in the financial sector, 16 December 2022.

<sup>48</sup> The Federal Council's position on the prevention of greenwashing in the financial sector, 16 December 2022.

<sup>49</sup> The Federal Council's position on the prevention of greenwashing in the financial sector, 16 December 2022.

## 1.2.2 Associative rules

### *The SBA rules*

In June 2022, the SBA published voluntary self-regulatory guidelines, which require member institutions to take their clients' ESG preferences into account. These guidelines are limited to investment advisory and portfolio management services.<sup>50</sup> Therefore, the SBA rules only tackle with the fiduciary duties of the SBA's member institutions in relation to ESG risks. Under these guidelines, if a client has not waived his right to information by opting out of the FinSA retail client category, to professional client category<sup>51</sup> he must be informed of the ESG risks, solutions and characteristics associated with the financial instrument.<sup>52</sup>

The limited scope set by the SBA rules means that other financial services such as acquisition or disposal of financial instruments, receipt and transmission of orders in relation to financial instruments, granting of loans to finance transactions with financial instruments are excluded from these guidelines.<sup>53</sup>

Thus, the SBA rules do not deal with greenwashing of financial products.

### *The AMAS rules*

AMAS published self-regulatory rules in September 2022, setting a level of transparency for:

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<sup>50</sup> Art. 3 and 7 Guidelines for the financial service providers on the integration of ESG-preferences and ESG risks into investment advice and portfolio management: [https://www.swissbanking.ch/Resources/Persistent/a/5/e/0/a5e0845f065a60699df88910ae675b7082e69411/SBA\\_Guidelines\\_investment\\_advice\\_and\\_portfolio\\_management\\_EN.pdf](https://www.swissbanking.ch/Resources/Persistent/a/5/e/0/a5e0845f065a60699df88910ae675b7082e69411/SBA_Guidelines_investment_advice_and_portfolio_management_EN.pdf).

<sup>51</sup> The ASB Guidelines adopt the client segmentation according to FinSA article 4. Clients are to be segmented between, i) private clients, ii) professional clients, and iii) institutional clients. These guidelines do not apply to institutional clients and to professional clients, who may waive their right to be informed under art 10 of the ASB Guidelines.

<sup>52</sup> Art 10 Guidelines for the financial service providers on the integration of ESG-preferences and ESG risks into investment advice and portfolio management.

<sup>53</sup> Art. 3 Guidelines for the financial service providers on the integration of ESG-preferences and ESG risks into investment advice and portfolio management.

- i) appropriate organisation for the management of collective assets at the financial institution level; and
- ii) sustainability-related information of collective assets.<sup>54</sup>

Much like the SBA rules, the AMAS rules concentrate on setting a minimum standard for fiduciary duties, only for AMAS members who manage sustainability-related collective assets in Switzerland and/or operate as Swiss sustainability-related collective investment schemes or producers.<sup>55</sup>

The rules expand on sustainability-related investment approaches for producers of collective investment schemes<sup>56</sup> – stating that collective

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<sup>54</sup> Art. 7 AMAS self-regulation on transparency and disclosure for sustainability-related collective assets from 26 September 2022: <https://www.am-switzerland.ch/en/regulierung/selbstregulierung-standard/sustainable-finance>.

<sup>55</sup> Falls within the definition of “manage sustainability-related collective assets” under Art 4 lit. a of the AMAS self-regulation on transparency and disclosure for sustainability-related collective assets from 26 September 2022: “*Fund management companies (Art. 32 et seqq. FinIA), SICAVs (Art. 36 et seqq. CISA), limited partnerships for collective investment (Art. 98 et seqq. CISA), SICAFs (Art. 110 et seqq. CISA), managers of collective assets (Art. 24 para. 1 FinIA), portfolio managers (Art. 17 FinIA), and institutions that are exempt from the duty to obtain authorisation as a manager of collective assets on the basis of Art. 6 FinIA and Art. 9 para. 2 FinIO (banks under the Banking Act, securities firms under FinIA, and insurance companies under the Insurance Supervision Act (ISA)) and managed sustainability-related collective assets (Art. 24 para.1 FinIA)*”.

Falls within the definition of “collective investment schemes or producers” under Art 4 lit. b of the AMAS self-regulation on transparency and disclosure for sustainability-related collective assets from 26 September 2022: “*Fund management companies (Art. 32 et seqq. FinIA), SICAVs (Art. 36 et seqq. CISA), limited partnerships for collective investment (Art. 98 et seqq. CISA), and SICAFs (Art. 110 et seqq. CISA) that operate as fund management companies, SICAVs, limited partnerships for collective investment or SICAFs for sustainability-related collective investment schemes or are identical to these*”.

<sup>56</sup> Art. 25 AMAS self-regulation on transparency and disclosure for sustainability-related collective assets from 26 September 2022.

investment schemes that only employ exclusion<sup>57</sup> or ESG integration<sup>58</sup> approaches do not qualify as sustainability-related collective assets. They may not be described or positioned as sustainable. Any reference to the sole use of exclusions or sole ESG integration (*i.e.*, not combined) must clearly state that the collective assets are neither sustainable nor sustainably managed.<sup>59</sup>

The AMAS rules set minimum standards on fiduciary duties for managers, with a general approach for collective investment schemes products. As such, the AMAS rule does not deal with greenwashing of financial products such as structured products, shares and bonds.

#### *The SSF & AMAS recommendations*

The AMAS and SSF recommendations of December 2021 divide investors' sustainability goals into three category:<sup>60</sup>

- i) investments to minimise financial risks and optimise performance in line with ESG criteria;
- ii) investments aligned with personal values; and
- iii) impact investments.

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<sup>57</sup> Exclusion is understood by AMAS as “including both negative screening and norm-based exclusions that systematically rule out specific issuers from an investment portfolio due to activities or business practices that violate given norms or values based on clients’ preferences or due to anticipated risks”, Appendix – sustainable investment approaches AMAS self-regulation on transparency and disclosure for sustainability-related collective assets from 26 September 2022.

<sup>58</sup> ESG integration is understood by AMAS as “taking sustainability risks and opportunities into account in traditional financial analysis and investment decision-making on the basis of systematic processes and appropriate research sources”, Appendix – sustainable investment approaches AMAS self-regulation on transparency and disclosure for sustainability-related collective assets from 26 September 2022.

<sup>59</sup> Art. 26 par. 4 AMAS self-regulation on transparency and disclosure for sustainability-related collective assets from 26 September 2022.

<sup>60</sup> AMAS/SSF Recommendations on transparency and minimum requirements for sustainable investment approaches and products, December 2021, p.13: <https://www.am-switzerland.ch/it/themen/sustainable-finance/publikationen-2/amas-ssf-recommendations> .

Within these categories, the SSF and AMAS recommendations set minimum requirements to be met and minimum information to be provided to investors.<sup>61</sup>

These recommendations are of interest in the event of litigation, as they allow the parties to contextualise and support their position within the industry's recommendations.

In the current regulatory environment, FINMA cannot recognise AMAS and the SBA's self-regulation as a minimum standard of sustainability. Consequently, these self-regulations do not override the legal framework set out above. However, they prove useful in the event of litigation for the claimant and defendant to establish and demonstrate fiduciary duties from the applicable self-imposed standard used by the industry.

Since disclosure requirements are currently not uniform across financial products, nor compulsory, the Federal Council aims to set binding and enforceable obligations, to provide a legal avenue to clients and investors in the event of non-compliance with the transparency requirements.<sup>62</sup>

Until such clear transparency principles are established, in relation to financial products and services, customers and investors can and should take action based on the existing provisions. Switzerland is thus currently more fertile ground for litigation on investment funds than on other products, but this is likely to change in the near future given the proposals to be made by the Federal Department of Finance by the end of September 2023, FinSA will probably be amended accordingly.

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<sup>61</sup> AMAS/SSF Recommendations on transparency and minimum requirements for sustainable investment approaches and products, December 2021.

<sup>62</sup> The Federal Council's position on the prevention of greenwashing in the financial sector, 16 December 2022.