

# LEGAL PROVISIONS RELATED TO CLIMATE-RELATED DISCLOSURES REQUIREMENTS FOR INVESTORS

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## Law No. 2015-992 of 17 August 2015 on Energy Transition for Green Growth

### TITLE VIII

### GIVING CITIZENS, BUSINESSES, TERRITORIES AND THE GOVERNMENT THE POWER TO ACT TOGETHER

#### CHAPTER I

Tools for national governance of the energy transition: planning, research and training

#### Article 173

[...]

III. – A. – The sixth paragraph of Article L. 225-37 of the [French] Commercial Code is supplemented by the following sentence:

"It shall also account for financial risks linked to the effects of climate change and the measures that the company takes to reduce such effects by implementing a low-carbon strategy in all components of its business. "

B. – A of the present III shall apply as from the financial year ended 31 December 2016.

IV. – A. – In the first sentence of the fifth paragraph of Article L. 225-102-1 of the [French] Commercial Code, the following words are inserted after the word: "activity": ", including the consequences for climate change of its activity and the use of the goods and services that it produces,".

B. – A of the present IV shall apply as from the financial year ended 31 December 2016.

[...]

B. – The Government shall provide Parliament, before 31 December 2016, with a report on the implementation of a scenario of regular stress tests representative of climate change-related risks.

VI. – A. – Article L. 533-22-1 of the [French] Monetary and Financial Code is supplemented by the following two paragraphs:

"Insurance and reinsurance companies governed by the [French] Insurance Code, mutual insurance companies and unions governed by the [French] Mutual Insurance Code, employee benefits institutions and their unions governed by the [French] Social Security Code, open-ended investment companies, the Caisse des Dépôts et Consignations, supplementary pension institutions governed by the [French] Social Security Code, the institution providing supplementary pension schemes for non-statutory employees of the government and public bodies, the public institution managing the mandatory supplementary public-service pension scheme and the National Pension Fund for local authority employees shall mention in their annual report and provide to their subscribers information on the means by which criteria relating to compliance with environmental, social and quality of governance objectives are taken into account in their investment policy and on the methods implemented to contribute to the energy and ecological transition. They shall set out the nature of these criteria and the way in which they implement them according to a standard presentation established by decree. They shall indicate how they exercise the voting rights attached to the financial instruments resulting from these choices.

"The decree referred to in the third paragraph sets out the information to be provided for each of the objectives depending on whether or not the entities mentioned in the same paragraph exceed the thresholds defined in this same decree. Consideration of the exposure to climate risks, in particular the measurement of greenhouse gas emissions related to the assets held, as well as the contribution to compliance with the international objective to limit global warming and to achieving the energy and ecological transition objectives, are included in the information pertaining to the consideration of environmental objectives. This contribution is notably assessed with regard to the indicative targets defined, according to the nature of their activities and the type of their investments, in accordance with the national low-carbon strategy mentioned in Article L. 221-1 B of the [French] Environmental Code. As appropriate, the entities mentioned in the third paragraph of the present Article shall explain the reasons for which their contribution is below these indicative targets for the last completed financial year."

B. – A of the present VI shall apply as from the financial year ended 31 December 2016.

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## Article L225-37 of the [French] Commercial Code

[...]

In companies whose financial securities are admitted to trading on a regulated market, the Chairman of the Board of Directors must report, in a report appended to the report mentioned in [Articles L. 225-100, L. 225-102, L. 225-102-1](#) and [L. 233-26](#), on the composition of the board and the application of the principle of gender-balanced representation on the board, the conditions for preparing and organising the work of the board, as well as on the internal control and risk management procedures put in place by the company, and in particular give the details of those procedures concerning the preparation and treatment of accounting and financial information for the financial statements and, if relevant, for the consolidated financial statements. Without prejudice to the provisions of [Article L. 225-56](#), the said report shall also indicate any limitations the Board of Directors places on the powers of the Chief Executive Officer. *It shall also account for financial risks linked to the effects of climate change and the measures that the company takes to reduce them by implementing a low-carbon strategy in all components of its business.*

When a company refers voluntarily to a code of corporate governance drawn up by organisations representing companies, the report specified in the present Article shall also set out the provisions that have been ruled out and the reason for this decision. The report shall also specify the place where this code may be consulted. If a company does not refer to such a code of corporate governance, this report shall indicate the rules used in addition to the legal requirements and state the reasons why the company decided not to apply any provision of this code of corporate governance.

[...]

The report defined in this Article shall be approved by the Board of Directors and shall be made public.

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## Article L225-102-1 of the [French] Commercial Code

[...]

It also includes all information concerning the way in which the company deals with the social and environmental consequences of its business, including the consequences for climate change of its business and the use of the goods and services that it produces, and its societal commitments to promote sustainable development and the circular economy, as well to fight against food waste, and to promote diversity and fight against discrimination. A Conseil d'Etat decree sets out two lists specifying the information covered in this paragraph and how it is presented to enable the comparison of data, depending on whether or not the company is admitted to trading on a regulated market.

The preceding paragraph applies to companies whose securities are admitted to trading on a regulated market as well as to companies whose total balance sheet assets or turnover and workforce exceed the thresholds defined by the Conseil d'Etat decree. Where the company publishes consolidated financial statements, the information provided is consolidated and concerns the company itself and all its subsidiaries as defined in [Article L. 233-1](#) or the companies that it controls as defined in [Article L. 233-3](#). Subsidiaries or controlled companies that exceed the thresholds mentioned in the first sentence of this paragraph are not required to publish the information mentioned in the fifth paragraph of the present Article when this information is published by the company that controls them, as defined in [Article L. 233-3](#), in detail for each subsidiary and controlled company and when these subsidiaries or controlled companies indicate how to access such information in their own management report. When the subsidiaries or controlled companies are established in the national territory [France] and include classified sites subject to authorisation or registration, the information provided covers each one of the said companies when the information cannot be consolidated.

Social and environmental information included or to be included in accordance with legal and regulatory obligations shall be verified by an independent third-party body, under the procedure defined by the Conseil d'Etat decree. This verification shall lead to an opinion that is sent to the general meeting of shareholders or members at the same time as the report by the Board of Directors or the Executive Board.

The preceding paragraph shall apply as from the financial year that started after 31 December 2011 for companies whose securities are admitted to trading on a regulated market. It shall apply as from the financial year ended 31 December 2016 for all companies concerned by the present Article.

The opinion of the independent third-party body shall comprise, inter alia, a certificate stating that all the information to be included in accordance with legal and regulatory obligations has been included. This certificate must be provided as from the financial year that started after 31 December 2011 for all companies concerned by this Article.

The provisions of the last two paragraphs of Article L. 225-102 apply to the information covered by the present Article.

The provisions of the first to third paragraphs do not apply to companies whose securities are not admitted to trading on a regulated market and which are not controlled within the meaning of Article L. 233-16 by a company whose securities are admitted to trading on a regulated market. Moreover, these provisions do not apply to corporate officers who do not hold any legal mandate in a company whose securities are admitted to trading on a regulated market.

As from 1 January 2013, the Government shall present a report to Parliament every three years on the application of the provisions referred to in the fifth paragraph by companies and on the actions that it is promoting in France, Europe and at the international level to encourage corporate social responsibility.

[...]

NOTE:

*Pursuant to II of Article 229 of Law No. 2015-990 of 6 August 2015, these provisions shall apply to the financial years starting on or after 1 January 2015.*

*Pursuant to B of IV of Article 173 of Law No. 2015-992 of 17 August 2015, the words "including the consequences for climate change of its business and the use of the goods and services that it produces," introduced by A of IV of the same Article, shall apply in the version of Article L. 225-102-1 resulting from said Article 173, from the financial year ended 31 December 2016.*

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## **Article L533-22-1 of the [French] Monetary and Financial Code**

The management companies shall provide subscribers of each UCITS or AIFs that they manage and falling under paragraphs 1, 2 and 6 of subsection 2, of paragraph 2 or sub-paragraph 1 of paragraph 1 of subsection 3, or subsection 4 of section 2 of chapter IV of title I of book II of this Code with information about the means by which criteria relating to compliance with environmental, social and quality of governance objectives are accounted for in their investment policy. They shall set out the nature of these criteria and the way in which they implement them according to a standard presentation established by decree. They shall indicate how they exercise the voting rights attached to the financial instruments resulting from these choices.

The decree referred to in the previous paragraph also specifies the media on which this information must appear and which shall be mentioned in the prospectus for the UCITS or AIF falling under paragraphs 1, 2 and 6 of subsection 2, of paragraph 2 or sub-paragraph 1 of paragraph 1 of subsection 3, or subsection 4 of section 2 of chapter IV of title I of book II of this Code.

Insurance and reinsurance companies governed by the [French] Insurance Code, mutual insurance companies and unions governed by the [French] Mutual Insurance Code, employee benefits institutions and their unions governed by the [French] Social Security Code, open-ended investment companies, the Caisse des Dépôts et Consignations, supplementary pension institutions governed by the [French] Social Security Code, the institution providing supplementary pension schemes for non-statutory employees of the government and public bodies, the public institution managing the mandatory supplementary public-service pension scheme and the National Pension Fund for local authority employees shall mention in their annual report and provide to their subscribers information on the means by which criteria relating to compliance with environmental, social and quality of governance objectives are taken into account in their investment policy and on the methods implemented to contribute to the energy and ecological transition. They shall set out the nature of these criteria and the way in which they implement them according to a standard presentation established by decree. They shall indicate how they exercise the voting rights attached to the financial instruments resulting from these choices.

The decree referred to in the third paragraph sets out the information to be provided for each of the objectives depending on whether or not the entities mentioned in the same paragraph exceed the thresholds defined in this same decree. Consideration of the exposure to climate risks, in particular the measurement of greenhouse gas emissions related to the assets held, as well as the contribution to compliance with the international objective to limit global warming and to achieving the energy and ecological transition objectives, are included in the information pertaining

to the consideration of environmental objectives. This contribution is notably assessed with regard to the indicative targets defined, according to the nature of their activities and the type of their investments, in accordance with the national low-carbon strategy mentioned in Article L. 221-1 B of the [French] Environmental Code. As appropriate, the entities mentioned in the third paragraph of the present Article shall explain the reasons for which their contribution is below these indicative targets for the last completed financial year.

NOTE:

*These provisions shall apply as from the financial year ended 31 December 2016.*

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Disclaimer: This is an unofficial translation provided for reference only.

The French version of these legal provisions can be found at the following links:

- [Article 173 of the Law No. 2015-992 of 17 August 2015 on Energy Transition for Green Growth;](#)
- [Article L225-37 of the \[French\] Commercial Code;](#)
- [Article L225-102-1 of the \[French\] Commercial Code;](#)
- [Article L533-22-1 of the \[French\] Monetary and Financial Code.](#)