**ClientEarth BlackRock complaint: Q&A**

***Why has this complaint been filed in Europe, and specifically in France?***

Using data from Reclaim Finance, ClientEarth analysis identified 18 of BlackRock’s actively managed retail investment funds that are marketed in France with ‘sustainable’ in their names. These funds are exposed to more than $1 billion of fossil fuel investment, the vast majority in fossil fuel developers.

In analysis and a complaint to the French financial regulator, the Autorité des marchés financiers (AMF), we argue that naming as ‘sustainable’ funds that invest in fossil fuel expanders – or those failing to comply with the Paris Agreement temperature goals – is misleading and a breach of European Union directives and regulations and French financial laws.

Recently released guidelines on fund naming from the European Securities and Markets Authority (ESMA), support the argument that it is inconsistent with ‘sustainability’ to invest in companies deriving significant revenue from fossil fuels. When these guidelines come into force, BlackRock will have nowhere to hide when it comes to the naming of its sustainable funds.

Reclaim Finance recently wrote an [open letter](https://reclaimfinance.org/site/en/2024/06/19/open-letter-to-the-amf-against-greenwashing-in-the-financial-sector/#:~:text=More%20than%2020%20researchers%2C%20economists,stop%20greenwashing%20French%20saving%20accounts.) to the French regulator, highlighting that greenwashing is rife in the French investment funds market. According to Reclaim Finance reports, more than two-thirds of French funds with sustainability claims actually invest in companies developing new coal, oil, and gas projects. ClientEarth wishes to build on these findings and encourage the regulator to take proportionate enforcement action in response to what we think is a clear breach of existing rules.

The AMF has [recognised](https://www.amf-france.org/en/news-publications/news-releases/amf-news-releases/autorite-des-marches-financiers-amf-publishes-findings-three-supervisory-initiatives-sustainable) the greenwashing risks associated with marketing ‘sustainable’ funds. Its 2024 *Action Plan and Supervision Priorities* include a focus on the greenwashing risk linked to ‘sustainable’ financial products in order to protect investors and consumers ([see page 27](https://www.amf-france.org/sites/institutionnel/files/private/2024-01/2024_01_plan-daction-priorites-de-supervision-2024.pdf)).

We believe that the AMF can show leadership on this important issue and set the standard for financial regulators in other countries to follow.

***Why is BlackRock the subject of the complaint?***

BlackRock is the world’s largest investment management company, with a portfolio of USD $9 trillion. It is the second largest institutional investor in fossil fuels overall, with an exposure of [more than $400 billion](https://investinginclimatechaos.org/media/pages/reports/ed622ba9ca-1721910411/pr.iicc-2024.pdf), and one of the asset managers with the highest share of ‘sustainable’ [passive funds](https://reclaimfinance.org/site/wp-content/uploads/2024/03/15032024-Report-Unmasking-greenwashing-a-call-to-clean-up-passive-funds.pdf) exposed to fossil fuel expansion.

Follow the Money’s ‘Great Green Investment Investigation’ of 2024 found that 40% of the 1,277 ‘sustainable’ funds on the market whose investments were available for analysis were invested in fossil fuel companies to some extent, including oil and gas producers such as TotalEnergies, and coal companies such as Glencore.

Follow the Money identified BlackRock and Amundi as among the worst offenders, each firm marketing around 40 funds to European consumers as ‘sustainable’ despite holding shares in fossil fuel companies.

We believe regulatory action is required to compel BlackRock to either change the name of its sustainable funds – or reallocate its portfolio – to ensure transparency and protection for investors. Although BlackRock funds are the target of this complaint, this pattern of behaviour is prevalent in the industry. We hope that this complaint encourages all asset managers to clean up their “sustainable” funds.

***What does being ‘sustainable’ actually mean for investment funds?***

As the International Energy Agency (IEA) has said: no new oil, gas or coal development can be built if the world is to meet the goals of the Paris Agreement.

We believe that must be reflected in the portfolios of investment funds – and that means firms like BlackRock must ensure that their sustainable funds are invested in transitioning away from fossil fuels, rather than financing their expansion.

***What rules do you believe BlackRock has broken?***

In our complaint we argue that it is misleading and a breach of EU directives and regulations to name as ‘sustainable’ funds that invest in fossil fuel expanders, or those unaligned with Paris Agreement temperature goals.

Specifically our complaint involves applying the following rules and regulations:

Rules requiring conduct, communications with investors, and regulated documents to be ‘fair, clear and not misleading’ derived from EU Directives and Regulations (as transposed / implemented in France), including:

* Article 14(1)(a) of Directive 2009/65/EC (UCITS Directive)
* Article 77 UCITS Directive
* Article 4(1) of Regulation (EU) 2019/1156 on facilitating cross-border distribution of collective investment undertakings (Distribution Regulations)
* Articles 24(3) of Directive 2014/65/EU (MiFID II)
* Article 6(1) of Regulation 1286/2014 (PRIIPs)
* Article 10(1) of the EU Sustainable Finance Disclosure Regulation (SFDR)

In addition, the recently released guidelines on fund naming from the European Securities and Markets Authority support the argument that it is inconsistent with ‘sustainability’ to invest in companies deriving significant revenue from fossil fuels. When these guidelines enter into effect, BlackRock will have nowhere to hide when it comes to the naming of its sustainable funds.

BlackRock may argue that it meets minimum criteria suggested by the AMF to ‘prevent risks of greenwashing’ in its 2020-03 Position/ Recommendation. ClientEarth believes that it is not possible for this criteria to be met by these BlackRock funds because the funds fail to explain to consumers that they invest in fossil fuel companies, including fossil fuel expanders, in contradiction of their ‘sustainable’ fund name. Even if the funds meet certain minimum criteria, as ClientEarth’s complaint demonstrates, these BlackRock funds remain in breach of overriding ‘fair, clear and not misleading’ legal obligations under EU and French laws.

***What is the likely process / timeline for the complaint?***

After submitting our complaint, it’s now at the discretion of the Autorité des marchés financiers whether to investigate and commence enforcement action.

While it’s not for ClientEarth to suggest the timeframe for the regulator to consider its response to our complaint, we believe we’ve presented strong evidence to support our arguments and look forward to hearing from the AMF when it has time to consider the issues fully.

***How did you identify and analyse the fossil fuel exposure of the funds?***

Our research identified a target suite of 18 actively managed investment funds marketed in France by Blackrock with ‘sustainable’ in their names, but which invest in fossil fuel companies. The figures and holdings included in the complaint are based upon data analysis undertaken by Reclaim Finance, using information extracted from the Morningstar Data Services Platform on 17 July 2024. The funds’ fossil fuel company holdings are identified and verified by reference to the [Global Coal Exit List](https://www.coalexit.org/) and the [Global Oil and Gas Exit List](https://gogel.org/).

These funds represent approx. USD$1.04bn of fossil fuel investment and comprise 2 ‘Article 9’ funds and 16 ‘Article 8’ funds. These funds have fossil fuel exposure between 1% and 27% of AUM, and fossil fuel developer exposure of between 0.8% AUM and 18% AUM.

ClientEarth’s analysis identified multiple instances of misleading conduct which included:

* ​Fossil fuel holdings which are inconsistent with the ‘sustainable’ fund name;
* Apparent breaches of certain funds’ own investment exclusions;
* ​Omission of any explanation in the funds’ investment objectives or communications that they will invest inconsistently with the fund name; and,
* Apparent failures to meet SFDR ‘do no significant harm’ requirements and/ or SFDR disclosure requirements.

***Why is this complaint an issue of concern for investors?***

Demand for truly sustainable investment products remains high in many markets around the world, from both individual and institutional investors.

Among retail investors, [a recent survey](https://www.amf-france.org/en/news-publications/news-releases/amf-news-releases/sustainable-investment-growing-interest-among-french-people-especially-youngest) – from the French financial regulator, the Autorité des Marchés financiers – of French adults showed that:

* 54% of respondents take sustainable development issues into account in their savings and investment choices at least from time to time;
* 75% of respondents said that the impact of investments on the environment is an important issue; and,
* Many of those that hold responsible funds were convinced to subscribe because: the money invested finances activities that promote the transition to a sustainable economy (36%); and the money is managed in an ethically and responsible manner (42%).

However, recent research has shown that a significant proportion of both actively and passively managed EU investment funds which are marketed as ‘sustainable’ in some way are exposed to fossil fuel companies and, in particular, fossil fuel expansion.

Follow the Money’s ‘Great Green Investment Investigation’ of 2024 found that 40% of the 1,277 ‘sustainable’ funds whose investments were available for analysis were invested in fossil fuel companies to some extent, including oil and gas producers such as TotalEnergies, and coal companies such as Glencore.

This is a significant concern for the market – not just because of investments flowing to fossil fuel expander companies – but because this is a clear breach of rules designed to ensure transparency and protection for investors.

Ultimately, exaggerated sustainability claims create a competitive advantage for these BlackRock funds, distorting competition in the market, diverting capital flows away from genuinely sustainable products.

***Isn’t BlackRock being attacked ‘by both sides’, criticised for both a lack of sufficient climate action and for lending too much weight to ESG concerns?***

This complaint is ultimately about ensuring transparency and protection for investors – who may be choosing ESG funds to align with their own sustainability views and/or to mitigate the real financial risk climate change poses.

There is a high demand for truly sustainable investment products, but it’s an open secret within the financial industry that greenwashing is rife.

Individuals and institutions worldwide are trusting BlackRock to invest their money sustainably – [polls](https://www.amf-france.org/en/news-publications/news-releases/amf-news-releases/sustainable-investment-growing-interest-among-french-people-especially-youngest) show that more than half of French people take sustainability concerns into account when considering financial products – but these funds are misleading investors and providing increased capital to fossil fuel expansion.

Ultimately, exaggerated sustainability claims create a competitive advantage for these BlackRock funds, distorting competition in the market, diverting capital flows away from genuinely sustainable products.

The purpose of the complaint is to clean up how sustainable funds are marketed to investors so that they can make investment decisions on an informed basis. While BlackRock may be under criticism from certain quarters in the US for paying too much attention to ESG factors in investment decision making – criticisms we believe are poorly founded given BlackRock’s huge investment in fossil fuels – that doesn’t mean the firm should benefit from misleading marketing practices by presenting funds which invest in fossil fuel expansion as sustainable.