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Decrees, orders, circulars

GENERAL TEXTS

MINISTRY OF ECOLOGY, SUSTAINABLE DEVELOPMENT AND ENERGY

Decree No 2015-1615 of 10 December 2015 on the “Energy and Ecological Transition for the Climate” Label

NOR: DEV1515626D

Public concerned: *Portfolio-management companies, certification bodies and investors.*

Purpose: *implementation arrangements and regulation of the “Energy and Ecological Transition for the Climate” Label.*

Entry into force: *the text shall enter into force on the day after its publication.*

Notice: *The decree creates the “Energy and Ecological Transition for the Climate” label as well as the Label Committee established within the Ministry of Ecology, Sustainable Development and Energy. It sets out the methods for creating, revising and approving the criteria guidelines determining the criteria that investment funds must meet to earn the “Energy and Ecological Transition for the Climate” label. It details the labelling procedures for funds and establishes the role of certification bodies and monitoring procedures for funds requesting the “Energy and Ecological Transition for the Climate” label. The creation of this label brings together the objectives of Law No 2015-992 of 17 August 2015 on Energy Transition for Green Growth.*

References: *The Environmental Code amended by this decree can be consulted, in its amended version, on the Légifrance website(<http://www.legifrance.gouv.fr>).*

The Prime Minister,

On the report of the Minister for Ecology, Sustainable Development and Energy,

Having regard to Commission Delegated Regulation (EU) No 231/2013 of 19 December 2012, supplementing Directive 2011/61/EU of the European Parliament and of the Council with regard to exemptions, general operating conditions, depositaries, leverage, transparency and supervision;

Having regard to Directive No 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in in transferable securities (UCITS);

Having regard to Directive No 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010;

Having regard to the French

Consumer Code; Having regard to

the French Environmental Code;

Having regard to the French

Monetary and Financial Code;

Having regard to Law No 2015-992 of 17 August 2015 on Energy Transition for Green Growth, in particular Article 2;

Having regard to Decree No 2006-672 of 8 June 2006 on the creation, composition and functioning of administrative consultative commissions,

Decree:

Article 1. – Title II of Book I (regulatory part) of the French Environmental Code is supplemented by Chapter VIII, as follows:

“ CHAPTER VIII

*“The Energy
and Ecological Transition for the Climate Label”*

“Section 1

“ General principles

« *Article D. 128-1.* – For the purposes of this chapter, the following terms are defined as follows:

“ 1. “Portfolio-management company”: a portfolio-management company as referred to in Article L. 532-9 of the French Monetary and Financial Code;

“ 2. “Investment funds”: undertakings for collective investment as referred to in Article L. 214-1 of the French Monetary and Financial Code, under Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) or alternative investment funds in the sense of Article L. 214-24 of the same code, under Directive No 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 which do not have a substantial leverage effect in the sense of Article 111 of Commission Delegated Regulation (EU) No 231/2013 of 19 December 2012 supplementing Directive 2011/61/EU of the European Parliament and of the Council with regard to exemptions, general operating conditions, depositaries, leverage, transparency and supervision;

« 3. “Certification of an investment fund”: process, also called “labelling”, by which the “Energy and Ecological Transition for the Climate” label is attributed to an investment fund.

« *Article D. 128-2.* – Investment funds can earn the “Energy and Ecological Transition for the Climate” label. This label guarantees that the ‘labelled’ funds meet certain criteria, particularly in relation to their direct or indirect contribution to the financing of the energy and ecological transition and the quality and transparency of their environmental characteristics.

“These criteria can differ according to which category the investment funds are in and their potential thematic balance.

“To guarantee to the potential investor that an investment fund meets the defined criteria, certification of the fund is required under the conditions provided for in section 4 of this chapter.

“Section 2

*“The committee of the
“Energy and Ecological Transition for the Climate” Label*

« *Article D. 128-3.* – The Label Committee:

« 1. Provides its view to the Environment Minister on developments in the broad guidelines on the labelling process as well as on the implementation of the whole scheme;

« 2° Proposes amendments to the label criteria guidelines provided for in Article D. 128-8, and to the framework inspection and monitoring plan provided for in Article D. 128-10.

« *Article D. 128-4.* – I. – The Label Committee is made up of twenty members, composed as follows:

"1° A college composed of five representatives of the French State, including the Commissioner General for Sustainable Development;

"2° A college composed of five representatives from professional or non-professional investment funds and portfolio-management companies;

"3° A college composed of five representatives from civil society;

"4° A college of five people qualified in the subject of financial asset management or certification.

« II. – Members of the Label Committee may be represented.

« III. – The president of the committee is the Commissioner General for Sustainable Development

« *Article D. 128-5.* – Members of the committee are appointed by order of the Environment Minister. “The term of office of members of the Label Committee lasts three years and can be renewed.

« *Article D. 128-6.* – The president and members of the Label Committee carry out their functions for no remuneration.

“Their travel and accommodation costs shall be reimbursed under the conditions provided for by the regulations applicable to State civil servants.

“They are bound by confidentiality with regard to the facts, documents and information they may become aware of while carrying out their roles.

« *Article D. 128-7.* – The functioning of the committee is governed by the rules of procedure established by order of the Environment Minister. Its secretariat is provided by the services of the Commissioner General for Sustainable Development.

“Section 3

“The criteria guidelines of the labelling

« *Article D. 128-8.* – I. – The criteria guidelines of the “Energy and Ecological Transition for the Climate” label, which defines the criteria provided for in Article D. 128-2 that investments funds must meet in order to be certified, is set out by order of the Environment Minister.

« *Article D. 128-9.* – From the initial publication of the criteria guidelines, revisions shall be proposed by the Label Committee.

“Observations on the criteria guidelines in force can be sent to the Label Committee through certifications and portfolio-management companies who are running labelled funds or who are applicants for labelling. After being examined by the Label Committee, these can give rise to amendments to the criteria guidelines.

“Section 4

“Certification and monitoring terms

“Sub-section 1

« The framework inspection and monitoring plan for the label

“Article D. 128-10. – The framework inspection and monitoring plan which defines the principles applicable to the certification procedures for investment funds requesting the label, the role of certification bodies and the monitoring and tracking procedures for the funds who have obtained the label is set out by order of the Environment Minister. It complies with the provisions of sub-sections 2 and 3 of this section.

« *Article D. 128-11.* – As of the first publication of the framework inspection and monitoring plan, revisions shall be proposed by the Label Committee.

“Observations on the framework inspection and monitoring plan in force can be sent to the Label Committee through certification bodies and portfolio-management companies who are running labelled funds or who are applicants for labelling. After being examined by the Label Committee, these can give rise to amendments to the framework inspection and monitoring plan.

“Sub-section 2

“Portfolio-management companies

« *Article D. 128-12.* – Any portfolio-management company wishing to obtain the “Energy and Ecological Transition for the Climate” label for one of its investment funds makes a request to a certification body of its choice for it to validate their approach, and submits an information dossier to them that sets out specifically how they meet the requirements of the criteria guidelines and the associated internal monitoring process.

« *Article D. 128-13.* – I. – Up to the 30 September 2016, certification bodies shall be selected by the Environment Minister.

“II. – From 1 October 2016, certification bodies are accredited by the French Accreditation Committee or by any other accreditation organisation who is signatory to a multilateral recognition agreement as part of the European coordination of accreditation organisations.

“Sub-section 3

“The certification bodies

« *Article D. 128-14.* – Certification bodies shall evaluate and monitor the compliance of the funds put forward by the portfolio-management company with the label criteria guidelines set out in Article D. 128-8 on the basis of the evaluation terms of the framework inspection and monitoring plan set out in Article D. 128-10.

« *Article D. 128-15.* – When the certification body confirms that a fund put forward for application by a portfolio-management company meets the criteria set out in the criteria guidelines provided for in Article D 128-8, labelling is effective for a term of one year.

“It shall inform the Label Committee of this within a month.

« *Article D. 128-16.* – While the monitoring audit for certification is being carried out, the certification body can request that the portfolio-management company complete a plan for corrective action with deadlines for the implementation of these actions.

During this monitoring audit, the certification body makes sure that these actions are being carried out, by auditing documents or on-site monitoring.

“The certification body can suspend or withdraw the labelling decision under the conditions set out in the framework inspection and monitoring plan.

"Article D. 128-17. – I. – The certification bodies shall send their decisions on granting, renewing, withdrawing or suspending certifications to the Label Committee within a period of one month.

"II. – They shall send, at the latest within two months following the end of the period from 1 October of one year to 30 September the following year, an annual business report, including a balance sheet for labelling, the list of funds who have earned the label and their main characteristics, a summary of the corrective actions requested of the label beneficiaries and the sanctions imposed against them.

« Article D. 128-18. – Subject to the exchange of information between certification bodies, necessary for their carrying out of monitoring or information-gathering tasks, certification bodies cannot publish confidential and identifying information that they may become aware of during the course of their activities.

“Section 5

“**Publication of information**

« Article D. 128-19. – Published on the website of the Environment Minister: " – the criteria guidelines;

" – the framework inspection and monitoring plan;

" – the usage rules for the distinctive logo that symbolises the “Energy and Ecological Transition for the Climate” label;

" – the list of certifying bodies;

" – the list of labelled funds;

" – the composition of and internal rules of the Label Committee.

“Notice of the granting, renewal, withdrawal or suspension of the selection decision of certification bodies shall be given on the website of the Environment Minister. ”

Article 2. – The Minister for Ecology, Sustainable Development and Energy is responsible for the execution of this decree, which shall be published in the *Official Journal* of the French Republic.

Done on 10 December 2015.

By the Prime Minister:

MANUEL VALLS

*The Minister for Ecology,
Sustainable Development
and Energy,*
SÉGOLÈNE ROYAL