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FEATURE

Fair Weather: The Fit Between Finance and Climate

The frequency and intensity of natural catastrophes, from raging wildfires to devastating floods, underline the need to intensify the fight against climate change. But the consensus on tackling this most serious of emergencies is falling apart, both in Europe and, more noticeably, in the United States. Against this backdrop, finance experts are calling for a fully developed carbon market to help economies accelerate the green transition.

Linephoto

EDITORIAL

Stéphane Giordano and Stéphanie Hubert | AMAFI

Following on from the Draghi Report on European competitiveness, the EU has made market financing the cornerstone of initiatives to boost all-important innovation and competitiveness. A pity, then, that the same concerns are not driving an equivalent collective debate here in France. To stay competitive, companies must continually adapt and innovate. But to do so, they need easy access to plentiful and flexible financing. Amid mounting international competition, the impact of capital-raising costs is too often overlooked.

Our country faces tough choices as it seeks to solve a complex budgetary problem against an uncertain political backdrop. Whatever decisions are made, they must consider the need for a well-functioning economy over the medium and long term. Otherwise, France cannot hope to maintain its already beleaguered economic model.

Our tax policy must support this ambition, instead of chasing away the capital that our businesses need – or giving Paris-based activities a reason to move elsewhere.

Fair Weather: The Fit Between Finance and Climate

Sandra Sebag

The climate data on 2024 make for grim reading. According to the World Meteorological Organization, the global average temperature increased by 1.5°C above pre-industrial levels to produce one of the hottest years on record. The effects are glaringly obvious. From the killer storms that battered Valencia in Spain to the cyclone that devastated Mayotte or the massive forest fires sweeping California, natural catastrophes are on the rise. And they taking a mounting toll in human lives and property damage. The goal of the 2015 Paris Agreement on climate change – to hold the global temperature increase to 1.5°C by 2050 – looks increasingly out of reach. Indeed, that threshold has already been hit. To contain rising temperatures, emissions will have to be cut by between 6% and 7% annually. But global economies are nowhere near achieving that target. In fact, the only year in which carbon emissions were actually reduced was 2020, when Covid brought economic activity to a worldwide standstill. Compounding the challenges, newly elected US President Donald Trump announced that the United States would leave the Paris Agreement, joining Iran, Libya and Yemen as the only countries not party to the accord. Already, many major names from US finance have pulled out of planetary initiatives in this area. And while Europe has been a leading light on the world scene, dissenting voices are now growing stronger. Only a handful of EU countries have actually transposed the Corporate Sustainability Reporting Directive into their national legislation. The CSRD, which came into force on 1 January 2025, introduced a slew of non-financial reporting requirements, including emissions disclosures by companies.

Time to Change Tack

While supporting the goals of the CSRD, many within European finance are unhappy about its methods and bemoan the excessive red tape and reporting requirements. Jean-Laurent Bonnafé, CEO of leading French bank BNP Paribas, has described the directive as "bureaucratic madness" and highlighted the extra workload, legal risks and competitive distortions relative to Asian and North American rivals. Finance industry experts are calling for a system that quantifies the costs, or negative externalities, of global warming and that builds uniform, appropriate carbon pricing into the formation of market prices. That mechanism, they argue, is a far more effective way to reduce the carbon footprint of human activity and make genuine headway towards net zero. To achieve this aim, carbon needs to be priced so that it properly captures the negative impact of emissions on economies in general and asset valuations in particular. One way to do this is by treating carbon as an externality. First posited by British economist Arthur Cecil Pigou in 1920, externalities are the positive or negative consequences of an economic activity for unrelated parties, the costs or benefits of which are not reflected in market prices. Putting a cost on carbon sends a strong signal to companies that are the source of the externality, forcing them to reduce or offset their emissions. But experts say the rules need to be standardised globally to give depth and liquidity to carbon markets and make them more efficient.

International carbon pricing initiatives such as the Canada-led Global Carbon Pricing Challenge and the International Carbon Action Partnership are being implemented around the world to drive progress and cooperation in this area. Local carbon markets are up and running. In its *State and Trends of Carbon Pricing 2024* report, the World Bank identified 75 pricing instruments in operation globally, which generated $104 billion in 2023. Much of this revenue went into funding climate- and nature-related programmes. The actual price of carbon can vary significantly from one venue to another: for example, the price per tonne at the end of December 2024 was $26 in New York compared with $61 in Europe. The World Bank says that higher prices and wider coverage will both be essential to unlocking the potential of carbon pricing. By some estimates, the price needs to rise to $150/tonne to meet the Paris Agreement goals. And that is just the start, as further increases will be required down the road. But higher carbon prices will hit asset valuations. Calculations by wealth manager Van Lanschot Kempen in 2021 found that if a carbon price of $150/tonne were applied to the Scope 1, 2 and 3 emissions of all listed companies – in other words, the direct and indirect emissions attributable to every firm and its value chain – global equity prices would collapse by 41%. Besides capturing corporate activity with a view to risk management and long-term investment, a stronger carbon market would also favour carbon-light assets by giving them an advantage over carbon-intensive assets or those with a carbon-intensive value chain. Higher-polluting assets could become impossible to sell or finance in a world where the fight against emissions needs to intensify to contain global warming. Entire swathes of carbon-heavy activity might be turned into so-called stranded assets whose financial worth is destroyed by the accounting recognition of negative externalities, including the carbon price.

Europe's Purpose-Built Legal Toolkit

European institutions are increasingly aware of the benefits of carbon pricing and have created a new set of legal tools for the purpose. One of these is the Carbon Border Adjustment Mechanism, or CBAM, which aims to stop carbon leakage. This occurs when EU-based firms move carbon-intensive production to countries with less stringent climate policies than in the EU, or when EU products get replaced by more carbon-intensive imports. The mechanism is applied to imports of specific products most at risk of leakage – cement, iron and steel, aluminium, fertilisers, electricity and hydrogen – and ensures that the carbon price of imports is equivalent to that of domestic production. The CBAM is currently in a transitional phase running from 2023 to 2025, and the finalised regime is slated to come into effect on 1 January 2026.

Carbon allowances are another tool in the legal kit. In a cap-and-trade system, emissions limits are placed on the most carbon-intensive companies. The cap is expressed in emission allowances: one allowance gives the right to emit one tonne of carbon dioxide equivalent (CO_2e). Allowances are mostly bought through auctions or trading, although a proportion is freely allocated. The cap is lowered over time, thus reducing the supply of allowances and forcing firms to control their emissions. Companies with spare allowances can sell them to firms that need more of them, in accordance with the polluter-pays principle. The earliest emissions trading system, ETS, was launched by Europe in 2005 and covered just a few sectors, including heavy industry and aviation. To boost the market, which was worth $47 billion in 2023, and support the goal of reaching net zero by 2050, European authorities revisited the scheme in April 2023. They expanded its scope and adopted new measures as part of the Fit for 55 reforms designed to slash EU emissions by at least 55% by 2030. The revised programme features plans to include the shipping sector in the current EU ETS, to accelerate the annual reduction in emissions allowances by 4.2% compared with 2.2% previously, and to phase out free allocations to industry. A new trading system, ETS2, has been created to cover emissions from fuel combustion in several areas that have made slow progress, including road transport, buildings and small businesses. ETS2 seeks to cut emissions in these key sectors by 42% by 2030 relative to 2005 while providing a carbon price signal to promote investment, all with the ultimate goal of getting the EU to net zero by 2050. Revenue from the system is primarily directed towards climate and energy projects across the union to promote a fair "green" transition.

Compliance vs. Voluntary Schemes

Carbon allowances are used to meet regulatory requirements. Emitters who fail to meet them must pay fines or obtain additional allowances. Carbon credits, however, are used by emitters to offset their emissions. Like allowances, credits are measured in tonnes of CO_2e. Unlike allowance markets, carbon credit markets are voluntary. And although voluntary markets are dwarfed by mandatory or "compliance" schemes, they are cross-border in scope, whereas European emissions allowances, for instance, are strictly for use within the EU. Carbon credits are tradable instruments generated through financing for projects aimed at reducing or absorbing greenhouse gas emissions, including carbon capture and sequestration, reforestation and forest conservation initiatives. Credits are issued by project developers or their financial backers, often based in developing or emerging countries. These credits are purchased directly or through intermediaries by investors, companies, organisations and even individuals– typically in developed economies – to offset their own emissions or to contribute to reducing global emissions.

The carbon credit market relies on intermediaries that provide financing and organise trading. To function correctly, carbon credits need a legal definition to ensure that they are covered by a statutory framework. Are they contracts, securities or intangible assets? Owner identification is another critical issue. Online registries identify owners, record transfers and track consumption of carbon credits. But the certification bodies that hold these registries take no responsibility for identifying title to carbon credits, a shortcoming that adds further legal uncertainty. Although carbon credits are mostly traded over the counter, organised markets exist for forward contracts, chiefly in the United States, as well as in the United Kingdom and Europe. Since EU markets are unregulated, they are not subject to rules for price transparency, best execution or licensing of market operators and intermediaries. What's more, the usual regulatory provisions governing financial assets do not apply to carbon credits or their derivatives. Given the inherent cross-border qualities of carbon credits, their legal status needs to be clarified and harmonised globally.

Voluntary carbon markets peaked at $1.9 billion worldwide in 2022, but shrank to $800 million in 2023 after a string of scandals. In January 2023, a joint investigation by UK daily *The Guardian,* German weekly *Die Zeit* and SourceMaterial, a non-profit, found that the vast majority of carbon offsets approved by Verra, one of the world's leading certifiers, were worthless "phantom" credits. Later in the year, a study published in influential magazine *Science* found that REDD+ projects, which purportedly cut emissions from deforestation and forest degradation, did not significantly reduce deforestation or were substantially less effective than claimed. These events compounded long-standing scepticism of offset schemes, which have been accused of greenwashing by enabling polluters to keep on emitting.

In view of these scandals, a flurry of initiatives were launched in an effort to rebuild trust and credibility. The Integrity Council for the Voluntary Carbon Market, an international and independent governance body, established a benchmark for carbon credit quality. At the end of 2024, at the COP 29 summit in Baku, certification standards were adopted and a milestone agreement was reached on launching a UN-backed global voluntary market. Other initiatives include an International Swaps & Derivatives Association report stressing the need to clarify the legal nature of these products to support market development, and a working group set up by Unidroit, an organisation seeking to harmonise private international law, that will publish a set of principles in 2025 or 2026. And the International Organization of Securities Commissions (IOSCO) issued a report in 2023 identifying key vulnerabilities and proposing an initial set of best practices for sound and well-functioning voluntary carbon markets.

Proposals from Paris

In France, the HCJP, a high-level committee set up to consider legal issues affecting the Paris financial centre, is looking at questions surrounding voluntary carbon credits. An HCJP working group released a report in October 2024 that contained recommendations to stimulate the market and bolster the legal and regulatory regime for carbon credits. The group called for the legal status of these credits to be clarified, arguing that they should be treated as intangible assets, a definition that reflects their economic nature and matches the expectations of market participants. It also recommended establishing a presumption that the carbon credit owner is the holder identified in the registry where the credit is registered. With this in mind, the group suggested setting up a voluntary pan-European carbon credit registry to harmonise ownership transfer practices and guarantee cross-border legal recognition. Extending the rules for financial instruments to cover carbon credits was also mooted.

Forward-looking Initiatives

Other initiatives are taking their cues from the carbon market, learning from its successes but also its failures. The 2022 COP 15 biodiversity summit held in Montreal, Canada, highlighted the need to promote innovative finance schemes such as biodiversity offsets and credits. Building on this, at the COP 16 conference in Cali, Colombia, an International Advisory Panel on Biodiversity (IAPB) set up and co-led by France and the United Kingdom proposed a framework for high-integrity biodiversity credit markets. While recognising the parallels and crossovers between carbon and biodiversity markets, the panel stressed that biodiversity is both more complex and locally specific than carbon. Importantly, the IAPB said that it did not support international biodiversity offsetting approaches: compensation must be local-to-local and like-for-like. Indigenous peoples and local communities, who are the stewards of nature, must play a central role and be involved in markets and projects. The aim is to put a strong framework in place first, before the market develops, in order to create confidence in biodiversity credits. The IAPB is running more than 30 pilots worldwide to show high-integrity practice in action. Projects range from rewilding Scottish rainforests to restoring wildlife corridors in Kenya.

The climate emergency demands action. And while the global consensus may not be as strong as it once was, positive steps are nonetheless being taken. Backed by regulatory action and political will, carbon markets offer solutions to help meet the challenges facing our planet.

INTERNATIONAL

SUSTAINABLE FINANCE

ESG derivatives

Tanankorn Pilong

While the role of derivatives in sustainable finance is still being questioned, and the regulatory framework applicable, particularly in Europe, remains ambiguous or disadvantageous, IOSCO has launched a consultation on ESG derivatives in order to clarify their contribution to sustainable finance and establish harmonised principles for their use.

In its feedback to the consultation *(AMAFI / 25-07)*, AMAFI emphasised the role played by derivatives in finance in general and in sustainable finance in particular. It highlighted their influence on companies' cost of capital and investors' capacity to gain exposure to sustainable assets or to hedge the related risks.

On the question of how to measure the exposure that an equity derivative provides to its underlying, the Association stressed the relevance of the delta-based method, which gives investors accurate information by reflecting a derivative's actual impact.

AMAFI continues to contribute to European and international initiatives in this area, contributing to define concrete guidelines for the role of derivatives in sustainable finance and to ensure that they are recognised within the regulatory framework.

Ambra Moschini

T+1 SETTLEMENT

AMAFI/European Commission meeting

The European Union and the United Kingdom are getting ready to switch to T+1 settlement in October 2027. As part of ongoing discussions on this topic within the European Commission, AMAFI met with Jennifer Robertson, Head of Unit, Financial Market Infrastructure at DG FISMA, to raise two key issues for its members:

▶ **Representing the whole market ecosystem in the project's governance structure:** AMAFI stressed that governance must reflect the diversity of market participants, not only in terms of geography but also of size and business sector. It also underlined the challenge that T+1 represents for mid-sized firms. These views, shared by other stakeholders, seem to have been taken on board, because the final governance arrangements feature more diverse representation than was originally proposed. AMAFI Chairman Stéphane Giordano sits on the Industry Committee on behalf of the European Forum of Securities Associations, while several AMAFI members belong to the working groups that are open to interested experts.

▶ **Penalties under the Central Securities Depositories Regulation:** the CSDR's penalty system, which has no equivalent anywhere in the world, could magnify the difficulties that could emerge during the move to T+1. This is especially true for market segments with a microstructure that does not yet support optimal settlement, such as exchange-traded funds or illiquid bonds. As a precaution, it should be possible to suspend payment of these penalties if need be. Ms Robertson said that talks were underway on this topic but expressed concerns about the signal that might be sent to market participants on T+1 compliance. AMAFI does not share these apprehensions since the industry is tightly focused on making the transition to T+1 a success. Further, US experience and Britain's initiative prove that a penalty mechanism is not prerequisite for successful migration.

Arnaud Eard

MIFID II

Transaction reporting and order book data

ESMA consulted on transaction reporting (RTS 22) and order book data (RTS 24) as part of the MiFID II review. Some of the consultation proposals are far removed from the Commission's avowed objectives of simplifying the regulatory framework and making the European economy more competitive.

Several provisions *(AMAFI / 25-06)* are a matter of concern:

▶ **Introducing new identifiers, including the Transaction Identification Code and the Chain Identifier**, would add significant operational complexity throughout the reporting chain. Past experience with EMIR's Unique Transaction Identifier has shown how such identifiers can introduce ambiguities and inconsistencies that exacerbate compliance risks. A cost-benefit analysis is needed.

▶ **Alignment of transaction reporting** with the EMIR and SFTR frameworks would duplicate costs for data already covered by these regulations without improving transparency.

▶ **New reporting fields** have been proposed with unproven benefits in terms of enhanced supervision, while the shift from XML to the JSON reporting format would add complexity and cost.

Making frequent changes to reporting requirements is extremely costly for market participants and disrupts production and control processes. AMAFI stressed that any proposed modification should be carefully weighed to assess the value that it actually adds. The real priorities should be to eliminate redundancies, buttress supervisory capabilities and simplify procedures to make them more efficient.

Emmanuel de Fournoux, Diana Safaryan

LISTING ACT

Prospectus

The Prospectus Regulation has been amended as part of the Listing Act package, which seeks to make it easier for companies to raise market financing. ESMA held consultations on the Level 2 measures that will be adopted to clarify a number of the provisions, giving AMAFI the opportunity to offer feedback on two key issues:

- **The form and sequencing of prospectuses:** AMAFI *(AMAFI / 24-85)* supported the proposal to use a standardised and simplified prospectus for standard shares and bonds. *(AMAFI / 25-03).*

AMAFI also welcomed the proposal to introduce a section clarifying the sustainability features of structured products' underlying components. This is a significant step forward in terms of recognising the need to consider underliers when assessing a product's sustainability.

However, the proposal to request additional information from issuers that already meet the criteria of the EU Green Bond standards seems redundant. More generally, AMAFI stressed the need to keep the regulatory framework for European sustainable bonds simple in order to encourage its use.

- **Civil liability of the prospectus issuer or offeror:** ESMA wants to know whether there are market benefits to harmonising the liability regime for prospectuses in EU. While AMAFI *(AMAFI / 24-87)* does not see harmonisation as a priority, it is not against the idea, which could be part of a 28th regime, in line with the *Letta Report* recommendations.

Thiebald Cremers, Ambra Moschini

SUSTAINABLE FINANCE

Taxonomy reporting

As part of the draft Omnibus Directive, which aims to simplify certain ESG standards such as the Corporate Sustainability Reporting Directive (CSRD), the Corporate Sustainability Due Diligence Directive (CS3D) and the Taxonomy, AMAFI calls for a postponement of the implementation of taxonomy indicators relating to the trading book and fees and commissions, currently scheduled for 2026.

Postponement would provide an opportunity to reassess the relevance of the indicators, or even to consider removing them, allowing firms to concentrate on concrete actions, such as improving transition plans.

Ambra Moschini

WITHHOLDING TAXES

Adoption of the FASTER Directive

The Faster and Safe Relief on Excess Withholding Taxes (FASTER) Directive, adopted at the end of last year and applicable to dividend payments on listed shares and interest payments on listed bonds, contains three key measures:

- Introducing a common EU digital tax residence certificate (e-TRC).
- Creating a fast-track "relief at source" procedure and a quick refund procedure.
- Introducing standardised reporting obligations for certified financial intermediaries that are registered with a national registry.

While AMAFI welcomes the determination to lower barriers to cross-border investment through improved withholding tax procedures *(AMAFI / 22-47)*, it questions the mechanism's ability to actually reduce the obstacles. Notably, AMAFI still has concerns about the challenges that certified financial intermediaries could face from an operational implementation perspective as central players in the FASTER scheme *(AMAFI / 23-71)*.

Member states have until 31 December 2028 to transpose the directive, for application beginning on 1 January 2030.

Maguette Diouf

FRANCE

ATTRACTIVENESS ACT

Implementing the Attractiveness Act

Crédits :piranka

The Attractiveness Act that came into force in France in June 2024 aims to increase market financing for companies and make the country's economy more attractive *(AMAFI / 24-39)*.
The Treasury recently consulted the financial community about several of the implementing decrees for the new legislation.

In its feedback *(AMAFI / 25-05)*, AMAFI raised the following points:

- To ensure that the new multiple voting rights mechanism introduced by the act is successful, it is important to clarify the procedures for compensating holders of multiple voting rights if these are removed during a public offering. For this, responsibility and procedures for setting compensation need to be specified.
- For investors and issuers alike, the procedure for calculating the minimum price for capital increases without pre-emptive subscription rights needs to be simplified. It should be based on the most recent closing price rather than the weighted average over the last three trading sessions.

Thiebald Cremers, Yann Besseau

AML/CFT

Draft update of ACPR-Tracfin joint guidelines

The ACPR consulted its own Consultative Commission on Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT), of which AMAFI is a member, on a draft update to the ACPR-Tracfin joint guidelines on due diligence obligations for transactions monitoring and Tracfin reporting obligations.

The biggest change is that measures relating to handling and setting automated customer-transaction monitoring systems have been incorporated in the guidelines. AMAFI reminded the ACPR about the need to maintain a risk-based approach, which is both vital to effective AML/CFT systems and necessary to capture the wide range of affected activities *(AMAFI / 24-67)*.

AMAFI also put forward a number of amendments aimed at ensuring that market activities are not subject to provisions that are unsuited either to the nature of business relations in the sector or to the way the market functions *(AMAFI / 24-67* and *AMAFI / 25-04)*.

Catherine Balençon, Julie Dugourgeot

EUROPEAN INCOMING BRANCHES

AMF questionnaire

The Branches Compliance working group is examining the AMF's annual questionnaire on European incoming branches, which the authority has been supervising more closely over recent years.

AMAFI's members have raised questions about the questionnaire in previous years, asking for guidance on interpreting some of its questions and querying the AMF's competence with respect to some of the themes covered, such as complaints handling or algorithmic trading.

The working group therefore plans to suggest amendments to the questionnaire that should resolve these issues while still meeting the AMF's goals.

Catherine Balençon, Julie Dugourgeot

ACCESSIBILITY

Establishment of an Accessibility working group

AnVr

At the request of its Compliance and Private Banking Compliance Committees, AMAFI has set up a working group to consider issues involved in implementing the Accessibility Act, an EU cross-sector directive transposed into French law in 2023.

The new legislation will come into application at the end of June 2025 for banking and financial services. Some products and services will be required to offer specific disclosure procedures for people with disabilities or functional limitations.

The working group will concentrate on the operational impacts of the measures for private banking activities and for the key information documents and promotional materials for packaged retail and insurance-based investment products.

Catherine Balençon, Julie Dugourgeot

VAT

Mandatory electronic invoicing

Following the announcement that the government would stick to the schedule for phasing in mandatory electronic invoicing and refocusing the role of the Public Invoicing Platform (PPF), the Directorate General for Public Finances (DGFiP) and the agency that runs the government's financial IT systems renewed their efforts to support the business community by organising multiple workshops featuring representatives from the tax authorities, companies, software publishers and industry bodies.

Since the original idea of giving free access to the PPF platform in order to exchange invoices was scrapped, only PDPs, which are privately-owned and mainly fee-charging partner e-invoicing platforms, will be used by VAT-liable entities to exchange electronic invoices. Around 80 platforms have already been registered with the DGFiP for this purpose. The PPF, meanwhile, will simply act as a registry of participants affected by the reform and receive data from PDPs.

AMAFI continues to pay attention to this issue through a working group focusing specifically on its members' invoicing requirements and procedures.

Maguette Diouf

AMAFI

NEW MEMBERS

▶ **Feefty**, an investment firm serving a professional clientele and specialised in providing bespoke advice on structured products and digital tools for structured products. Its senior managers are Grégory Vial (Chairman) and Guillaume Dumans (CEO).

▶ **I-Kapital**, an investment firm whose activities include investment advice and placement without a firm commitment. Its senior managers are Yoni Kabalo (Chairman) and Alexandre Fortunade (Associate Director).

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AMAFI documents quoted in this Newsletter and flagged with a reference number are on our website at

www.amafi.fr

Most of them, notably AMAFI's responses to public consultations, are freely available, but some are restricted to members only.

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