

**Q1. Do you agree with the need to introduce quantitative thresholds to assess funds' names?**

We welcome the opportunity to respond to ESMA's consultation on draft guidelines on the use in funds' names of ESG or sustainability-related terms.

By means of introduction, we understand the issue that ESMA is trying to solve with consulting these guidelines. According to recent research, (retail) investors tend to over-rely on fund names with regards to the sustainable character of a fund. We believe quantitative thresholds are necessary in the future. But we believe it premature to introduce quantitative thresholds to assess funds' names at this point in time, as long as the underlying concepts of 'Sustainable Investments' and 'ESG characteristics' are not clearly defined in legislation. Changing the name of the fund clearly could have impact on offering and consumer choices. But linking the possibility to use sustainability related terms in fund names to concepts of SFDR ('ESG-characteristics' and 'Sustainable Investments') could still prove to mislead consumers. This is mainly the case because these SFDR-concepts have no single definition or methodology that underlines them.

We have no solution for this (nor has ESMA), as these definitions of SFDR are a level 1 issue that the European co-legislators need to tackle. However, the solution ESMA is proposing with these Guidelines will in the end not stop greenwashing as long as the SFDR-concepts and definitions are not crystal clear. For example, one firm could have a proprietary methodology to apply and meet 'ESG-characteristics' and 'Sustainable Investments'. However, another firm could have a completely different proprietary methodology to assess 'ESG-characteristics' and 'Sustainable Investments'.<sup>1</sup> If these underlying concepts form the basis for applying sustainability related terms in funds names, this could prove to be misleading to consumers as the consumer has to assess and compare different proprietary methodologies with each other. For professionals this task is ought to be barely feasible, but for Retail investors it will be impossible. Another complicating factor is that a fund with a strict methodology to determine sustainable investments that commits to 50% sustainable investments might in fact be more sustainable than the fund with a very loose sustainable investments definition that commits to 80% sustainable investments. We believe this is not in the best interest of the client nor is it making the world any more sustainable.

**Q2. Do you agree with the proposed threshold of 80% of the minimum proportion of investments for the use of any ESG-, or impact-related words in the name of a fund? If not, please explain why and provide an alternative proposal.**

We believe quantitative thresholds are necessary in the future. But we believe it premature to introduce quantitative thresholds to assess funds' names at this point in time. And if thresholds are introduced, it is important to use the correct datapoints to determine this percentage. In our opinion we should take a look at the Actual Asset Allocation in the periodic reporting templates and not at the Planned Asset Allocation in the pre contractual templates. Making the name dependent on the Planned Asset Allocation can lead to greenwashing if the Actual Asset Allocation is below the threshold, while ESG/Impact can still be in the fund name.

We have noticed that funds especially private market funds (including private equity) are hesitant to specify targets for E- and/or S- minimum proportions because they do not know beforehand where they will be investing. This depends on investment opportunities in the market. We are therefore convinced that as a result of this thresholds there will be less ESG or impact funds available, especially in private markets. Our concern is that this could lead to an impoverishment of the product range, while we see on the other hand that there is more demand in the market for these type of products

**Q3. Do you agree to include an additional threshold of at least 50% of minimum proportion of sustainable investments for the use of the word "sustainable" or any other sustainability-**

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<sup>1</sup> Please also refer to Morningstar 'SFDR Article 8 and Article 9 Funds: Q4 2022 in Review', exhibit 34, that outlines that for product with the same PAB-benchmark and underlying, the percentage of 'sustainable investments' varies between 5 and 45%.

**related term in the name of the fund? If not, please explain why and provide an alternative proposal.**

For a retail investor, the difference between 'ESG-characteristics' and 'Sustainable Investments' will not be clear, as it is neither the case for professionals (different methodologies lead to different outcomes). As long as methodologies are not centralized or unified, it does not make sense to propose additional thresholds that relate to these undefined concepts. This can, quite the opposite, lead to greenwashing under the banner of regulation.

**Q4. Do you think that there are alternative ways to construct the threshold mechanism? If yes, please explain your alternative proposal.**

Yes.

1. Construct a single methodology (or a list of possible methodologies) to assess 'sustainable investments' and 'ESG characteristics', for example in SFDR L1.
2. Apply this methodology / these methodologies to assure/assess whether specific funds either qualify as art. 8 or art. 9. SFDR could subsequently be used as a label (ESMA states that it should not be used as a label, but market practice clearly indicates otherwise).
3. Art. 9 could be marketed as Sustainable (in line with their sustainable investment objective) and Art. 8 could be marketed as ESG in fund names.
4. The additional benefit is that this also aligns between sectors (pensions, insurance, funds etc.) instead of fund sector alone.

Of course we understand the above alternative will be a long and difficult journey. But the proposed 'quick and dirty' guidelines will not fix the Sustainable Finance discussion in the short nor the long term and neither does it contribute to a more sustainable world.

**Q5. Do you think that there are other ways than the proposed thresholds to achieve the supervisory aim of ensuring that ESG or sustainability-related names of funds are aligned with their investment characteristics and objectives? If yes, please explain your alternative proposal. If yes, please explain your alternative proposal.**

Please see above, Q4.

**Q6. Do you agree with the need for minimum safeguards for investment funds with an ESG- or sustainability-related term in their name? Should such safeguards be based on the exclusion criteria such as Commission Delegated Regulation (EU) 2020/1818 Article 12(1)-(2)? If not, explain why and provide an alternative proposal.**

**Q7. Do you think that, for the purpose of these Guidelines, derivatives should be subject to specific provisions for calculating thresholds? a) Would you suggest the use of the notional value or the market value for the purpose of the calculation of the minimum proportion of investment? b) Are there any other measures you would recommend for derivatives for the calculation of the minimum proportion of investments?**

We believe derivatives contracts are not the funding of investments in economic activities like with shares, bonds, and participation rights in investment funds. Derivatives hedge specific risks in the portfolio of a clients like interest rate risk, FS risk, credit risk or commodity risks. Or are used to profit from price movements in the underlying value (e.g., shares or basket of shares). This specific character of derivatives justifies a different approach. In general in case the derivatives offered for the purposes as mentioned above, there is no reason to include specific requirements or specific provisions in the proposed guidelines. For transparency reasons we think this assumption should be disclosed to the client. In specific cases derivatives could be seen as sustainable. For example, when the derivative hedges risks on sustainable underlying values like sustainable improvement loans or green bonds. This provided that the sustainable character of the underlying value has consequences for the derivative. E.g. a discount for the client on the derivative when certain pre agreed sustainability metrics on a loan are met.

**Q8. Do you agree that funds designating an index as a reference benchmark should also consider the same requirements for funds' names as any other fund? If not, explain why and provide an alternative proposal.**

We wonder why a fund using an index as a reference benchmark should be treated any different. ESMA could clarify this in the draft guidelines.

**Q9. Would you make a distinction between physical and synthetic replication, for example in relation to the collateral held, of an index?**

**Q10. Do you agree of having specific provisions for "impact" or impact-related names in these Guidelines?**

No, unless the definition of 'impact' is well defined and included in SFDR.

Furthermore, one could wonder where this list of sustainability-related names in fund names ends. 'green' (and what about brown?), 'social', 'responsible', 'nature' etc. To prevent circumvention of the guidelines, ESMA needs to clearly define what is a sustainability-related fund name. The same goes for 'impact'-related names. The 5 (non-exhaustive) examples that ESMA mentions in the Annex, lead to confusion and should be either extended or deleted.

**Q11. Should there be specific provisions for "transition" or transition-related names in these Guidelines? If yes, what should they be? 18**

No, unless the definition of 'transition' is well defined and included in SFDR. Please also see our answer to Q10.

**Q12. The proposals in this consultation paper relate to investment funds' names in light of specific sectoral concerns. However, considering the SFDR disclosures apply also to other sectors, do you think that these proposals may have implications for other sectors and, if so, would you see merit in having similar guidance for other financial products?**

ESMA notes that this consultation has the UCITS & AIFMD directive in scope. We believe it would be wise to apply these guidelines, if the condition of harmonized methodologies are met, only for funds at inception. At a later stage other financial products could be included.

**Q13. Do you agree with having a transitional period of 6 months from the date of the application of the Guidelines for existing funds? If not, please explain why and provide an alternative proposal.**

Please see Q1; we believe these guidelines to be premature. They will not tackle greenwashing and they will add to the confusion of retail investors.

**Q14. Should the naming-related provisions be extended to closed-ended funds which have terminated their subscription period before the application date of the Guidelines? If not, please explain your answer.**

**Q15. What is the anticipated impact from the introduction of the proposed Guidelines?**

Please see Q1; we believe these guidelines to be premature. They will not tackle greenwashing and they will add to the confusion of retail investors.

**Q16. What additional costs and benefits would compliance with the proposed Guidelines bring to the stakeholder(s) you represent? Please provide quantitative figures, where available.**