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| 18 November 2022 |

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| Reply form for the Consultation Paper on Guidelines for the use of ESG or sustainability-related terms in funds’ names |
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| Date: 18 November 2022 |

Responding to this paper

The European Securities and Markets Authority (ESMA) invites responses to the specific questions listed in the Consultation Paper on Guidelines for the use of ESG or sustainability-related terms in funds’ names published on the ESMA website.

*Instructions*

Please note that, in order to facilitate the analysis of the large number of responses expected, you are requested to use this file to send your response to ESMA so as to allow us to process it properly. Therefore, ESMA will only be able to consider responses which follow the instructions described below:

* use this form and send your responses in Word format (pdf documents will not be considered);
* do not remove the tags of type <ESMA\_QUESTION\_FUNA\_0> - i.e. the response to one question has to be framed by the 2 tags corresponding to the question; and
* if you do not have a response to a question, do not delete it and leave the text “TYPE YOUR TEXT HERE” between the tags.

Responses are most helpful:

* if they respond to the question stated;
* indicate the specific question to which the comment relates;
* contain a clear rationale; and
* describe any alternatives ESMA should consider.

**Naming protocol**

In order to facilitate the handling of stakeholders’ responses please save your document using the following format:

ESMA\_CP\_FUNA\_NAMEOFCOMPANY\_REPLYFORM.

e.g. if the respondent were ABCD, the name of the reply form would be:

ESMA\_CP\_FUNA\_ABCD\_REPLYFORM

***Deadline***

Responses must reach us by 20 February 2022.

All contributions should be submitted online at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading ‘Your input - Consultations’.

***Publication of responses***

All contributions received will be published following the end of the consultation period, unless otherwise requested. **Please clearly indicate by ticking the appropriate checkbox in the website submission form if you do not wish your contribution to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure.** Note also that a confidential response may be requested from us in accordance with ESMA’s rules on access to documents. We may consult you if we receive such a request. Any decision we make is reviewable by ESMA’s Board of Appeal and the European Ombudsman.

***Data protection***

Information on data protection can be found at [www.esma.europa.eu](http://www.esma.europa.eu) under the headings ‘Legal notice’ and ‘Data protection’.

# General information about respondent

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| --- | --- |
| Name of the company / organisation | Sustainable Finance Research Group University of Hamburg & Advanced Impact Research GmbH |
| Activity | Non-financial counterparty |
| Are you representing an association? |[ ]
| Country/Region | Germany |

# Introduction

Please make your introductory comments below, if any:

<ESMA\_QUESTION\_FUNA\_0>

***Prof. Dr. Timo Busch*** *is a full professor at the School of Business, Economics, and Social Science at the University of Hamburg and a member of the* ***Sustainable Finance Research Group at the University of Hamburg*** *(SFRG,* [*https://sfrg.org/home/*](https://sfrg.org/home/)*). The SFRG is comprised of professors from the University of Hamburg in the area of Finance, Accounting, and Strategy as well as senior fellows from the financial sector. Its aim is to highlight the role of financial markets and investments for sustainability in business practice.*

***Lisa Kim Breitenbruch*** *and* ***Eric Prüßner*** *are Senior Researchers at* ***Advanced Impact Research GmbH*** *(https://air4p.de/en/), a German research entity in sustainable finance whose corporate mission is to support the transition toward global sustainable development by promoting a stronger impact orientation and transparency in the sustainable investment market.*

We generally welcome ESMA’s initiative to propose guidelines on funds’ names using ESG or sustainability-related terms. We believe this presents an important opportunity to provide more clarity and reduce ambiguities as well as “ESG-washing” (to use the most holistic term according to the proposed ESMA guidelines) risks in the EU investment fund landscape.

For the final guidelines to fulfill their purpose, we believe their foundation should be a principles-based labeling approach based on a clear conceptual framework that defines conceptual minimum requirements for investment products to be awarded a certain “classification” or “label”. These classifications should then be complemented by a quantitative minimum threshold mechanism that logically builds upon the same underlying conceptual framework. To achieve the objective of preventing misleading communication and potential “ESG, sustainability- or impact-washing” in fund names, we believe that the final guidelines must establish “downward” as well as “upward boundaries” by defining (conceptual *and* quantitative) minimum requirements that investment products must fulfill to be allowed to use any 1) ESG-related, 2) “sustainable”-related, 3) impact-related, and 4) transition-related terms in their names.

From our point of view, the current proposed guidelines would not be effective in achieving these targets as such a clear conceptual foundation is missing. We propose that ESMA first defines a, or adopts the proposed, [conceptual framework](https://www.eurosif.org/wp-content/uploads/2022/07/FINAL-White-Paper-Eurosif-Classification.pdf), on which principles-based (labeling) guidelines can be built that can then be complemented by a quantitative minimum threshold mechanism.

<ESMA\_QUESTION\_FUNA\_0>

1. : Do you agree with the need to introduce quantitative thresholds to assess funds’ names?

<ESMA\_QUESTION\_FUNA\_1>

* **Yes, we believe that quantitative minimum thresholds that logically build upon a clear underlying conceptual framework can be *one (of two)* important element of the final “guidelines for the use of ESG or sustainability-related terms in funds’ names”.**
* As outlined in our response to Q5, we think that the foundation of any final guidelines should be a principles-based labeling approach based on a clear conceptual framework that defines conceptual minimum requirements for investment products to be awarded a certain “classification” or “label”. These classifications should then be complemented by a quantitative minimum threshold mechanism that logically builds upon the same underlying conceptual framework.
* To achieve the objective of ensuring that ESG or sustainability-related names of funds are aligned with their investment characteristics and objectives, we believe that the final guidelines must establish “downward” as well as “upward boundaries” by defining (conceptual *and* quantitative) minimum requirements that investment products must fulfill to be allowed to use any 1) ESG-related, 2) “sustainable”-related, 3) impact-related, and 4) transition-related terms in their names.
* For concrete suggestions on how to establish such minimum requirements cf. our answer to Q5.

<ESMA\_QUESTION\_FUNA\_1>

1. : 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.

<ESMA\_QUESTION\_FUNA\_2>

* Yes, **provided that a) conceptual minimum requirements**, that investment products must fulfill to generally qualify for the use of ESG-related terms in their names, **are clearly defined based on a clear conceptual framework and provided that b) the complementing quantitative minimum threshold mechanism logically builds upon that same framework, we consider the 80% to be a reasonable quantitative threshold.**
* As outlined in our response to Q5, we think that the foundation of any final guidelines should be a principles-based labeling approach based on a clear conceptual framework that defines conceptual minimum requirements for investment products to be awarded a certain “classification” or “label”. These classifications should then be complemented by a quantitative minimum threshold mechanism that logically builds upon the same underlying conceptual framework.
* To achieve the objective of preventing misleading communication and potential “ESG-washing” in fund names, we believe that the final guidelines must establish a “downward boundary” by defining (conceptual *and* quantitative) minimum requirements that investment products must fulfill to be allowed to use any ESG-related terms in their names (what is currently tried to be achieved with proposed provision 4.16). For concrete suggestions on how to establish such minimum requirements cf. our answer to Q5.

<ESMA\_QUESTION\_FUNA\_2>

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

<ESMA\_QUESTION\_FUNA\_3>

* **Yes, provided that a) conceptual minimum requirements**, that investment products must fulfill to generally qualify for the use of “sustainable”-related terms in their names, **are clearly defined based on a clear conceptual framework and provided that b) the complementing quantitative minimum threshold mechanism logically builds upon that same framework, we consider the 50% to be a reasonable quantitative threshold.**
* As outlined in our response to Q5, we think that the foundation of any final guidelines should be a principles-based labeling approach based on a clear conceptual framework that defines conceptual minimum requirements for investment products to be awarded a certain “classification” or “label”. These classifications should then be complemented by a quantitative minimum threshold mechanism that logically builds upon the same underlying conceptual framework.
* To provide clarity and differentiation to retail investors regarding the ESG-related ambition level of financial products, we believe that the final guidelines must establish “upward boundaries” by defining (conceptual *and* quantitative) minimum requirements that investment products must fulfill to be allowed to use any “sustainable”-related terms in their names (what is currently tried to be achieved with proposed provision 4.17). For concrete suggestions on how to establish such minimum requirements cf. our answer to Q5.
* Regarding proposed provision 4.17, we consider it **important to broaden the underlying understanding of “sustainable” investment products** (i.e. “sustainable investment products invest in sustainable assets”) that is currently best reflected in what we have defined above as impact-aligned. **It is necessary to (conceptually and quantitatively) include “impact-generating” investments as well, which in our view should not be excluded from using any “sustainable”-related terms in their names.** For example, for “impact-generating investments” that apply post-investment strategies (voting and/or engagement) to realize their investor impact objectives (and in return often apply less rigorous pre-investment selection criteria), the defined quantitative minimum threshold could refer to the minimum proportion of investees in the portfolio that have to be actively engaged in a defined timeframe with the aim of improving their investee impact. Despite the still outstanding clarifications regarding the exact definition of **“sustainable investments” according to Article 2(17) of SFDR,** we still consider this to be **a reasonable definitional reference** for impact-aligned investment products**.**

<ESMA\_QUESTION\_FUNA\_3>

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

<ESMA\_QUESTION\_FUNA\_4>

* Yes, as outlined in our response to Q5, we think that the foundation of any final guidelines should be a principles-based labeling approach based on a clear conceptual framework that defines conceptual minimum requirements for investment products to be awarded a certain “classification” or “label”. These classifications should then be complemented by a quantitative minimum threshold mechanism that logically builds upon the same underlying conceptual framework.
* To achieve the objective of preventing misleading communication and potential “ESG, sustainability- or impact-washing” in fund names, we believe that the final guidelines must establish “downward” as well as “upward boundaries” by defining (conceptual *and* quantitative) minimum requirements that investment products must fulfill to be allowed to use any 1) ESG-related, 2) “sustainable”-related, 3) impact-related, and 4) transition-related terms in their names.

For concrete suggestions on how to establish such minimum requirements cf. our answer to Q5. <ESMA\_QUESTION\_FUNA\_4>

1. : 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.

<ESMA\_QUESTION\_FUNA\_5>

* Yes – we believe that the foundation of any “guidelines for the use of ESG or sustainability-related terms in funds’ names” should be a principles-based labeling approach based on a clear conceptual framework that could be complemented by quantitative minimum threshold mechanisms that logically build upon the same underlying conceptual framework as a second step.
* To achieve the objective of ensuring that ESG or sustainability-related names of funds are aligned with their investment characteristics and objectives, we believe that the final guidelines must establish “downward” as well as “upward boundaries” by defining (conceptual and quantitative) minimum requirements that investment products must fulfill to be allowed to use any 1) ESG-related, 2) “sustainable”-related, 3) impact-related, and 4) transition-related terms in their names.
* To provide context to our response to this and other questions, we first list and comment on a range of terms whose definitions and differentiation should – in our view – form part of the underlying conceptual framework and are not yet sufficiently addressed by the proposed guidelines:
* **Ambition level**
	+ To what extent does an investment seek to actively support the transition toward a more sustainable world?[[1]](#footnote-2) This aspect should be clearly articulated.
* **ESG-related objectives**
	+ Is an active contribution to solving social/environmental real-world challenges an investment product’s main ESG-related objective (“impact”)?
	+ Or is its main ESG-related objective rather the adherence to specific values or norms (“values alignment”) or the reduction of ESG-related financial risks and seizure of ESG-related financial opportunities (“financial performance”)?[[2]](#footnote-3)
* **Materiality[[3]](#footnote-4)**
	+ Does an investment product apply a “financial materiality” perspective, i.e. does it only consider ESG factors (from an outside-in perspective) that could have a material negative or positive impact on the financial value of an investment in its investment process? (“ESG risks[[4]](#footnote-5) and opportunities”)
	+ Does an investment product apply an “impact materiality” perspective, i.e. does it only consider ESG factors (from an inside-out perspective) where an investment could have material negative or positive impacts on sustainability factors (people and/or the environment) in its investment process? (“ESG impacts”)
	+ Does an investment product apply a “double materiality” perspective, i.e. does it consider all ESG factors (from both, an outside-in as well as an inside-out perspective) that could have a material negative or positive impact on the financial value of an investment and that could have material negative or positive impacts on sustainability factors (people and/or the environment) in its investment process? (both, “ESG risks and opportunities” as well as “ESG impacts”)
* **Impact**
	+ The Impact Management Platform defines “impact” as “a change in an aspect of people’s well-being or the condition of the natural environment caused by an organisation.” An impact can be positive or negative, intended or unintended. Causality must be established by looking at a counterfactual.[[5]](#footnote-6)
	+ One important distinction is the one between “company (or investee) impact” and “investor impact”. Kölbel et. al (2020)[[6]](#footnote-7) define:
		- Company impact as “the change that a company’s activities achieve in a social or environmental parameter.”
		- Investor impact as “the change that investor activity achieves in company impact”.
* **Classification of ESG-related investment strategies** (based on a recently published [White Paper](https://www.eurosif.org/wp-content/uploads/2022/07/FINAL-White-Paper-Eurosif-Classification.pdf) on a proposed Classification Scheme for Sustainable Investments)**:**
	+ **Impact-related investments:** Based on the above definitions: Do an investment product’s impact-related objectives relate to “company impact” and/or “investor impact”-related considerations? Busch et al. (2022)[[7]](#footnote-8) differentiate between two types of impact-related investments:
		- **Impact-aligned investments**: focus on investees that have already realized positive “company impacts”. The objective is to align the portfolio with “sustainable outcomes” without a necessary, active contribution by the investor. “Sustainable outcomes” refer to outcomes for people and/or the environment that are within the acceptable range determined by internationally accepted societal or ecological thresholds (such as planetary boundaries, 1.5-degree scenario, or the UN SDGs)[[8]](#footnote-9). These investments have a medium ambition to actively support the transition toward a more sustainable world.
		- **Impact-generating investments:** the objective is to actively contribute to solving social and/or environmental real-world challenges through targeted investor action, i.e. to achieve positive “investor impact” by enabling investees in the portfolio to realize (more) positive and/or to reduce their negative impacts on sustainability factors. These investments have a high ambition to actively support the transition toward a more sustainable world. Core strategies to achieve positive „investor impact“ are capital allocation (i.e. the provision of access to additional/flexible capital to positive impact investees to further scale these impacts) and engagement/voting to encourage improvements.
	+ **ESG-related investments**
		- **Advanced ESG investments:** The objective is the reduction of ESG-related financial risks and the seizure of ESG-related financial opportunities. These investments exhibit a low ambition to actively support the transition towards a more sustainable world.
		- **Basic ESG investments:** The objective is the mitigation of ESG-related financial risks. These investments exhibit a marginal ambition to actively support the transition toward a more sustainable world.
	+ ESG-related investments implement different forms of pre- and post-investment strategies to fulfill their investment objectives, measure their ESG-related performance, and document and report accordingly.
* **Pre-investment and post-investment strategies**
	+ Which pre- and/or post-investment strategies does an investment product apply in its investment process to achieve its ESG-related objectives?
		- Examples of pre-investment strategies include exclusions, norm-based screenings, ESG integration, Best-in-Class, sustainability-themed strategies, or a targeted provision of access to additional/flexible capital to selected investees.
		- Examples of post-investment strategies include voting and engagement.
* Reasoning: One important objective of the proposed guidelines is to enhance investor protection and alignment of fund names with investor expectations. Studies[[9]](#footnote-10) suggest that many retail investors’ understanding of ESG-related investments at least entails a double materiality perspective (i.e. at least a consideration of all material negative or positive impacts on sustainability factors). Many retail investors might even have impact-related expectations towards ESG investment products (e.g. to be impact-aligned or even impact-generating).
* We think that the foundation of any “guidelines for the use of ESG or sustainability-related terms in funds’ names” should be a principles-based labeling approach based on a clear conceptual framework that takes such investor expectations into account and helps to create transparency for investors to match their preferences with suitable investment products. This would also help create the much-needed clarity that is currently missing in the MiFID II and SFDR frameworks.
* The conceptual framework presented above[[10]](#footnote-11) encompasses the complexity and variety of ESG-related investment strategies in the market. It helps to define relevant terms more precisely and to clearly differentiate types of investment products based on their ESG-related objectives, ambition levels, and materiality perspectives.
* These differentiations could be used to define clear, principles-based, conceptual minimum requirements that investment products must fulfill to be awarded a certain “classification” or “label”.
* These classifications could be complemented by quantitative minimum threshold mechanisms that logically build upon the same underlying conceptual framework as a second step.
* Both elements together, the principles-based labeling approach and the quantitative minimum threshold mechanism, would determine the types of investment products allowed to use any 1) ESG-related, 2) “sustainable”-related, 3) impact-related, and 4) transition-related terms in their names.
* In practice, this could work as follows:
1. The final guidelines must establish a **“downward boundary” by defining minimum requirements that investment products must fulfill to be allowed to use any ESG-related terms in their names** (what is currently tried to be achieved with proposed provision 4.16).
	1. Conceptual minimum requirements: Conceptually, such minimum requirements can be defined regarding investment products’ ESG-related objectives, ambition levels, and materiality perspectives. It could, for example, be determined that at least a “low” ambition level and a consideration of ESG risks and opportunities are required. Such provision would result in “basic ESG” products with only “marginal" ambition levels (that only apply ESG risk mitigation strategies from a financial materiality perspective) being excluded from using any ESG-related terms in their names (which would be consistent with the current understanding that Article 6 products would most likely not be able to refer to any ESG-, or sustainability-related terms in their names). Even if it were decided for “basic ESG” products to be allowed to use ESG-related terms in their names, the additional labeling as “basic ESG” would provide additional transparency and differentiation to investors.
	2. Quantitative minimum threshold mechanism: The corresponding quantitative minimum threshold mechanism would logically build upon the underlying conceptual framework: If a “low” ambition level and a consideration of ESG risks and opportunities are required, the defined quantitative minimum threshold should refer to the minimum proportion of investments in the portfolio that are selected based on ESG criteria that at least take ESG risks and opportunities into account.
2. The final guidelines must establish **“upward boundaries” by defining minimum requirements that investment products must fulfill to be allowed to use any “sustainable”-related terms in their names** (what is currently tried to be achieved with proposed provision 4.17).
	1. Conceptual minimum requirements: Conceptually, it could for example be determined that at least a “double materiality” perspective is required. Such provisions would result in investment products that only apply ESG risks- and opportunities-related strategies from a purely financial materiality perspective being excluded from using any “sustainable”-related terms in their names. “Impact-generating” investment products would (due to their “high” ambition level and applied double materiality perspective) explicitly not be excluded from using any terms derived from the word “sustainable” in their names.
	2. Quantitative minimum threshold mechanism: The corresponding quantitative minimum threshold mechanisms would again logically build upon the underlying conceptual framework: If a double materiality perspective is required, for “impact-aligned” investment products or “impact-generating” investment products that focus on positive investor impact through capital allocation, the defined quantitative minimum threshold could refer to the minimum proportion of investments in the portfolio that are considered “sustainable investments” based on criteria that take ESG risks, opportunities, and impacts into account. For “impact-generating investments” that apply post-investment strategies (voting and/or engagement) to realize their investor impact objectives (and in return often apply less rigorous pre-investment selection criteria), the defined quantitative minimum threshold could refer to the minimum proportion of investees in the portfolio that have to be actively engaged in a defined timeframe with the aim of improving their investee impact. (The additional labeling as “impact-generating” would provide additional transparency and differentiation to investors.)
3. The final guidelines seek to establish **further** **“upward boundaries” by defining minimum requirements that investment products must fulfill to be allowed to use any “impact”-related terms in their names** (what is currently tried to be achieved with proposed provision 4.20).
	1. Conceptual minimum requirements: Conceptually, it could for example be determined that at least a “medium” ambition level and a “double materiality” perspective are required. Such provisions would result in only investment products classified as “impact-aligned” or “impact-generating” being allowed to use any “impact”-related terms in their names.
	2. Quantitative minimum threshold mechanism: For “impact-aligned” investment products or “impact-generating” investment products that focus on positive investor impact through capital allocation, the corresponding quantitative minimum threshold could refer to the minimum proportion of investments in the portfolio that are considered “sustainable investments” based on criteria that take ESG risks, opportunities, and impacts into account. For “impact-generating investments” that apply post-investment strategies to realize their investor impact objectives, the corresponding quantitative minimum threshold could refer to the minimum proportion of investees in the portfolio that have to be actively engaged in a defined timeframe with the aim of improving their investee impact. (The additional labeling as “impact-generating” would again provide additional transparency and differentiation to investors.)
4. The proposed guidelines consider establishing **further “upward demarcations” by defining minimum requirements that investment products must fulfill to be allowed to use any “transition”-related terms in their names** (cf. Q11)
	1. Conceptual minimum requirements: Conceptually, it could for example be determined that at least a “high” ambition level to actively support the transition toward a more sustainable world through targeted investor action would be required. Such provision would result in only investment products classified as “impact-generating” being allowed to use any “transition”-related terms in their names.
	2. Quantitative minimum threshold mechanism: For “impact-generating investments” that apply post-investment strategies to realize their investor impact objectives, the corresponding quantitative minimum threshold could refer to the minimum proportion of investees in the portfolio that have to be actively engaged in a defined timeframe with the aim of improving their investee impact. For “impact-generating” investment” products that focus on positive investor impact through capital allocation, the corresponding quantitative minimum threshold could refer to the minimum proportion of (previously undersupplied) investees in the portfolio that have been provided with new/flexible capital.
* **Generally, we think classifying investment products into clearly defined investment categories is the first step to ensuring that ESG or sustainability-related names of funds are aligned with their investment characteristics and objectives.** While the categories provided by the SFDR tried to introduce such clarity, they miss important conceptual foundations and differences that we discussed above (e.g. the differentiation between company and investor impact as well as impact-aligned and -generating investments). This ambiguity was adopted by the integration of sustainability preferences in the update of the MiFID II directive. **Consequently, the guidelines on fund names provide a unique opportunity to introduce much-needed clarity regarding funds’ investment characteristics and objectives by introducing principle-based definitions of ESG-related categories to regulate fund names.**
* **This is similar to the approach the FCA is proposing in its recent Consultation Paper on Sustainability Disclosure Requirements (SDR) and investment labels[[11]](#footnote-12).** In one important aspect, the FCA proposal is conceptually imprecise: It differentiates between “Sustainable Improvers” and “Sustainable Impact” classifications of investment products. The explicit juxtaposition of these two terms suggests that products classified as “Sustainable Improvers” are not impact-related products. The associated category description, however, determines that this type of investment product intends to generate investor impact – primarily through the application of relevant post-investment strategies.
* We, therefore, believe that the proposed conceptual framework, including the term “impact-generating investments”, is conceptually more precise, as it encompasses both, what the FCA defines as “Sustainable Improvers” and “Sustainable Impact” categories.

<ESMA\_QUESTION\_FUNA\_5>

1. : 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.

<ESMA\_QUESTION\_FUNA\_6>

* **Yes. We think that the principles-based labeling approach based on a clear conceptual framework in addition to quantitative thresholds provides helpful minimum safeguards for investment funds with an ESG- or sustainability-related term in their name (see Q5 for details).**
* **We do not think that these minimums safeguards should solely be built on exclusion criteria such as defined in Commission Delegated Regulation (EU) 2020/1818 Article 12(1)-(2)**, because exclusion criteria do not necessarily make sense as minimum safeguards for every type of ESG-related investment product. If, for example, an impact-generating product that aims to improve company impact through engagement applies exclusions that are too strict, it will not be able to invest in companies with negative impacts in order to reduce these negative impacts.
* For other investment categories, using exclusions as minimum safeguards could be helpful. For example, regarding ESG-related investments that aim to reduce financial risks, minimum exclusions could safeguard from exposure to companies or industries with high ESG risks. For impact-aligned investments, minimum exclusions could safeguard the exclusion of those companies or industries that have high negative impacts on the environment or society.
* **To summarize, exclusions can work as minimum safeguards for some investment funds with an ESG- or sustainability-related term, but they need to build on the conceptual framework that distinguishes different categories of ESG- or sustainability-related investments (much like the quantitative thresholds; cf. Q5 for details).**

<ESMA\_QUESTION\_FUNA\_6>

1. : Do you think that, for the purpose of these Guidelines, derivatives should be subject to specific provisions for calculating thresholds?

<ESMA\_QUESTION\_FUNA\_7>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_FUNA\_7>

1. 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?

<ESMA\_QUESTION\_FUNA\_1>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_FUNA\_1>

1. Are there any other measures you would recommend for derivatives for the calculation of the minimum proportion of investments?

<ESMA\_QUESTION\_FUNA\_2>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_FUNA\_2>

1. : 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.

<ESMA\_QUESTION\_FUNA\_8>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_FUNA\_8>

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

<ESMA\_QUESTION\_FUNA\_9>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_FUNA\_9>

1. : Do you agree of having specific provisions for “impact” or impact-related names in these Guidelines?

<ESMA\_QUESTION\_FUNA\_10>

* **Yes. Usage of “impact” or impact-related terms in their names should be limited to investment products classified as “impact-aligned” or “impact-generating”.**
* As outlined in our response to Q5, we think that the foundation of any final guidelines should be a principles-based labeling approach based on a clear conceptual framework that defines conceptual minimum requirements for investment products to be awarded a certain “classification” or “label”. These classifications should then be complemented by a quantitative minimum threshold mechanism that logically builds upon the same underlying conceptual framework.
* To provide clarity to retail investors and prevent potential “impact-washing” in fund names, we believe that the final guidelines must establish “upward boundaries” by defining (conceptual *and* quantitative) minimum requirements that investment products must fulfill to be allowed to use any “impact”-related terms in their names (what is currently tried to be achieved with proposed provision 4.20).
* For concrete suggestions on how to establish such minimum requirements cf. our answer to Q5.
* Provided that a) conceptual minimum requirements, that investment products must fulfill to generally qualify for the use of “impact”-related terms in their names, are clearly defined based on a clear conceptual framework and provided that b) the complementing quantitative minimum threshold mechanism logically builds upon that same framework, **we consider 80% to be a reasonable quantitative threshold.**
* **As the term “impact” is associated with a particularly high ambition level, we consider it reasonable to apply a higher quantitative threshold than for the “sustainable”-related wording requirements.**
* For “impact-aligned” investment products or “impact-generating” investment products that focus on positive investor impact through capital allocation, the quantitative minimum threshold could refer to the minimum proportion of investments in the portfolio that are considered “sustainable investments” based on criteria that take ESG risks, opportunities, and impacts into account. For “impact-generating investments” that apply post-investment strategies to realize their investor impact objectives, the quantitative minimum threshold could refer to the minimum proportion of investees in the portfolio that have to be actively engaged in a defined timeframe with the aim of improving their investee impact.

<ESMA\_QUESTION\_FUNA\_10>

1. : Should there be specific provisions for “transition” or transition-related names in these Guidelines? If yes, what should they be?

<ESMA\_QUESTION\_FUNA\_11>

* **Yes. Usage of “transition” or transition-related names should be limited to investment products classified as “impact-generating”,** which are characterized by their “high” ambition level to actively support the transition toward a more sustainable world through targeted investor action.
* The reorientation of capital flows to support the “transition” to a low-carbon, more resource-efficient, and circular economy is one important aim of the EU Action Plan on Financing Sustainable Growth. One important component of this plan is the EU taxonomy for sustainable activities.
* In its current design, the EU sustainable finance regulation has one important limitation: The currently proposed definition of “sustainable investments” by Article 2(17) of SFDR is conceptually limited to investments in already sustainable activities (as defined by the EU taxonomy or otherwise). This understanding is best reflected in what we have defined above as “impact-aligned”. The problem is that this definition conceptually excludes investments with higher “transition”-related investment objectives, i.e. investments aimed at enabling investees that might not yet be “sustainable” to transform their activities with the aim of realizing (more) positive and/or reducing their negative impacts on sustainability factors (people and/or the environment). This understanding is best reflected in what we have defined above as impact-generating.
* As outlined in our response to Q5, we think that the foundation of any final guidelines should be a principles-based labeling approach based on a clear conceptual framework that defines conceptual minimum requirements for investment products to be awarded a certain “classification” or “label”. These classifications should then be complemented by a quantitative minimum threshold mechanism that logically builds upon the same underlying conceptual framework.
* To provide clarity to retail investors and prevent potential “impact-washing” in fund names, we believe that the final guidelines must establish “upward boundaries” by defining (conceptual *and* quantitative) minimum requirements that investment products must fulfill to be allowed to use any “transition”-related terms in their names.
* For concrete suggestions on how to establish such minimum requirements cf. our answer to Q5.
* Provided that a) conceptual minimum requirements, that investment products must fulfill to generally qualify for the use of “transition”-related terms in their names, are clearly defined based on a clear conceptual framework and provided that b) the complementing quantitative minimum threshold mechanism logically builds upon that same framework, **we consider 80% to be a reasonable quantitative threshold.**
* **As the term “transition” is associated with a particularly high ambition level, we consider it reasonable to apply a higher quantitative threshold than for the “sustainable”-related wording requirements.**
* For “impact-generating investments” that apply post-investment strategies to realize their investor impact objectives, the quantitative minimum threshold could refer to the minimum proportion of investees in the portfolio that have to be actively engaged in a defined timeframe with the aim of transforming their activities and thereby improving their investee impact. For “impact-generating” investment products that focus on positive investor impact through capital allocation, the quantitative minimum threshold could refer to the minimum proportion of (previously undersupplied) investees in the portfolio that have been provided with new/flexible capital to sustainably transform their activities.

<ESMA\_QUESTION\_FUNA\_11>

1. : The proposals in this consultation paper relates 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\_QUESTION\_FUNA\_12>

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<ESMA\_QUESTION\_FUNA\_12>

1. : 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.

<ESMA\_QUESTION\_FUNA\_13>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_FUNA\_13>

1. : 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.

<ESMA\_QUESTION\_FUNA\_14>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_FUNA\_14>

1. : What is the anticipated impact from the introduction of the proposed Guidelines?

<ESMA\_QUESTION\_FUNA\_15>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_FUNA\_15>

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

<ESMA\_QUESTION\_FUNA\_16>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_FUNA\_16>

1. <https://www.eurosif.org/wp-content/uploads/2022/07/FINAL-White-Paper-Eurosif-Classification.pdf> [↑](#footnote-ref-2)
2. <https://www.responsible-investor.com/investment-motivations-are-being-ignored-in-esg/> [↑](#footnote-ref-3)
3. In line with EFRAG’s “Double materiality conceptual guidelines for standard-setting”: <https://www.efrag.org/Assets/Download?assetUrl=%2Fsites%2Fwebpublishing%2FSiteAssets%2FED_ESRS_1.pdf> In line with Draft ESRS 1 considerations regarding double materiality: <https://www.efrag.org/Assets/Download?assetUrl=%2Fsites%2Fwebpublishing%2FSiteAssets%2FED_ESRS_1.pdf> p. 11ff [↑](#footnote-ref-4)
4. <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019R2088&qid=1583337894850&from=EN> p. 9, Art. 2(22) [↑](#footnote-ref-5)
5. <https://impactmanagementplatform.org/terms-and-concepts/> [↑](#footnote-ref-6)
6. <https://journals.sagepub.com/doi/10.1177/1086026620919202> [↑](#footnote-ref-7)
7. <https://www.eurosif.org/wp-content/uploads/2022/07/FINAL-White-Paper-Eurosif-Classification.pdf> [↑](#footnote-ref-8)
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9. <https://research.owlit.de/document/5ee8614a-4358-350e-b9ed-36add532654b>; <https://academic.oup.com/rfs/article/34/8/3976/6237929> [↑](#footnote-ref-10)
10. <https://www.eurosif.org/wp-content/uploads/2022/07/FINAL-White-Paper-Eurosif-Classification.pdf> [↑](#footnote-ref-11)
11. <https://www.fca.org.uk/publication/consultation/cp22-20.pdf> [↑](#footnote-ref-12)