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# ESMA Guidelines on funds' names

# FAIR's contribution

FAIR, as a French association of actors of social impact finance, welcomes the initiative by ESMA to put guidelines into place regarding the names of funds. Transparency and good investor information are paramount to a well-functioning Capital Markets Union, and when it comes to retail finance in particular, fund names are of great significance.

Q1 As noted in the proposed guidelines, French actors already comply with the AMF's Recommendation DOC-2020-03 regarding funds central communication elements and the terms that may be included therein, including fund name, Key Investor Information Document and other commercial communication. This AMF Recommendation includes quantitative thresholds, which we believe to be important to clarify notions that may otherwise be left to interpretation and heighten risks of green-, social- or impact-washing.

Furthermore, the Finansol label, managed by FAIR and awarded to investment vehicles investing in the social economy. For social funds (the french "90/10" model), the label criteria include a threshold for investments in the social economy, and demands that the totality of the fund be managed according to ESG criteria (among other criteria, including transparency, commercial action, and financial aspects such as management fees or subscription fees). These threshold don't directly affect the fund name. However, the objective pursued with such a label is in line with ESMA's efforts to provide clear, transparent information to retail investors. We would also like to notify that these criteria, as of today focusing on social economy, are going to evolve during T2 2023 to include a larger investment pool focusing on social impact finance at large.

In the interest of a fair Capital Markets Union, such thresholds should be shared between Member States, so that all actors may be held to the same demanding standard. Therefore, we agree on the need to introduce quantitative thresholds.

Q4 However, we fear the way the thresholds are constructed may have the side effect of reinforcing certain instances of green-, social- or impact- washing. Indeed, while we welcome the measures taken to construct a unified set of extra-financial disclosure rules and to avoid contradictions or overlaps by relating the Guidelines to SFDR requirements, we fear too much leeway may be allowed when it comes to the definition of E/S characteristics or sustainable investment:

- Different appreciation of E/S criteria may be used ;
- The definition of a sustainable investment is to be internally defined by actors ;
- The absence of a social taxonomy doesn't give clear enough guidelines to appreciate the socially beneficial nature of activities.

These concerns, added to the fact that there are no systematic audits of SFDR related disclosures, could lead to a suboptimal application of the Guidelines. Virtuous actors, using strict definitions, would not meet the requirements, while actors with less demanding practices would be able to use ESG or sustainability-related terms.
We believe thresholds could be introduced as they were in the AMF's recommendation, in particular regarding the positioning of the fund in regard with its investment universe, or the rate of non-financial analysis and rating.

Q10 As previously mentioned, the Finansol label is in the process of revision to include social impact finance at large. Our approach is focused on "impact first" investment vehicles, as opposed to "with impact" funds with a less demanding approach. We agree on the necessity of provisions relating to impact specific terms; however we feel the Guidelines may benefit from adding clearer definitions of what impact is. Indeed, the definition that was adopted by FAIR, and many other actors, includes three dimensions : intentionality and measurability (mentioned in the proposed Guidelines), but also additionality. Considering the intrinsic social or environmental value of an investment may not be enough. Indeed, a number of activities may create jobs; but without an added social impact (creating jobs for specific target populations or residing in priority areas, for instance), we do not consider that investing in such an activity could be considered a social impact investment.

FAIR would be delighted to communicate the specifics of the way these considerations will be taken into account in the upcoming revision of its Finansol label criteria, and to provide any further information.

Q15 FAIR can provide some insight on the potential impact of the proposed Guidelines, over the panel of some of its members. It is important to note that members of the association are already committed actors. Several of those actors considered that they might have to change their funds' names if the Guidelines were to be enforced, despite the fact that according to French regulation they follow a "significatively binding approach". This tends to reinforce our worry that virtuous actors might not meet requirements.

The association FAIR was born in 2021 from the merger of Finansol, historic actor of social finance, and Impact Invest Lab (iiLab), innovation lab on impact. Federating social impact finance in France and representing a French expertise center abroad, FAIR gathers more than 130 social enterprises, banks, asset managers, NGOs, schools and committed individuals. FAIR manages a label, the Finansol label, which helps the public distinguish social products from other products. Near 200 products have been awarded the Finansol label as of today.

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