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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 | Capital Group |
| Activity | Investment Services |
| Are you representing an association? |[ ]
| Country/Region | Europe |

# Introduction

Please make your introductory comments below, if any:

<ESMA\_QUESTION\_FUNA\_0>

Capital Group (“CG”) welcomes the opportunity to provide feedback to the European Securities and Markets Authority (ESMA) on the Consultation Paper on guidelines on funds’ names using ESG or sustainability-related terms (“Consultation”).

As one of the largest and most experienced investment management companies in the world our mission is to improve people’s lives through successful investing. CG achieves that by combining a rich heritage of asset management expertise with fundamental research to deliver long-term results. We believe integrating the consideration of material Environmental, Social, and Governance (ESG) risks and opportunities into our investment process helps us in achieving superior long-term outcomes for our clients

In this respect, the comments we provide to this Consultation derive from our role of a diligent steward of our clients’ assets and an investor engaging with companies to mitigate ESG risks and ensure long-term investment results.

CG supports the aim of the Consultation to address greenwashing risks and enhance clarity for investors. We believe that setting common criteria for the EU market of investment funds with ESG claims, including in cases where these funds use ESG or sustainability-related terms in their names, enhances comparability and consistency. This in turn supports investors reaching informed decisions on their investment and sustainability goals, establishes a robust and viable market landscape and contributes to the EU policy goals of sustainable finance.

Such common criteria for ESG-related fund names should focus on the way ESG considerations are integrated in the fund’s investment process. This is best way to demonstrate the fund’s commitments and objectives and ensure flexibility to evolve as our understanding of what constitutes a positive social and environmental impact. We believe that this focus should also apply to SFDR as the main way to demonstrate a fund’s commitment to ESG characteristics or objectives.

We don’t see how a focus solely on outcomes of the investment process (i.e., holdings) or pre-defined proportions of such outcomes/holdings can be a sufficient proxy for demonstrating the rigour of the investment process and ensure on their own that investors aren’t misled as to how investment results and social and environmental impact is generated. This would constitute a deviation from SFDR’s main principle of clearly demonstrating the way outcomes occur rather than solely disclosing outcomes.

We, therefore, disagree with the suggestion in the consultation to set the common criteria for funds with ESG or sustainability-related terms in their names on the basis of minimum proportion of holdings.

In addition to this in principle objection, we also highlight that setting a minimum threshold of holdings would need to be based on a legally clear and market-wide consistent definition. However, we note that the minimum thresholds in the consultation are based on a. the proportion of investments used to meet the environmental or social characteristics or sustainable investment objectives and b. the proportion of sustainable investments as defined by Article 2(17) of SFDR. For both metrics there remains unclarity in the current regulatory landscape. For the first one, the ways to consider ESG characteristics and thus the link of assets to such considerations varies among market participants and is not further specified under SFDR. Same applies for the definition of “sustainable investments”, which remains unclear, and we know that the European Commission is considering further specifying via dedicated Q&A. There have also been discussions for a review of SFDR among others to address the lack of clarity in relation to this term. This ambiguity means that there would not be enough clarity or comparability on these thresholds for fund to be entitled to bear ESG- or sustainability related terms in its name.

Finally, we note that if thresholds were to apply there are remaining open questions on the application for specific asset classes, i.e., derivatives, cash/cash equivalents and sovereign bonds. Given this ongoing ambiguity and lack of industry-wide best practice or common approach on ways to include such assets in an ESG-related methodology, we would question the feasibility of their inclusion in a way that can ensure market-wide consistency and comparability of the end results.

**We counter-suggest that in line with the SFDR rules the key criterion should be the requirement to demonstrate the binding elements in the ESG integration strategy and internal investment process, linked also to the ESG claims in the fund’s name.** **An integral part of this demonstration should be an explanation of how ESG and sustainable considerations are defined at the level of the product.**

**We also suggest as a general approach to apply rules on fund names only for investments in asset classes that are transferrable securities****, and a clear view is in place on how to take them into consideration for ESG considerations. For other assets such as derivatives, sovereign bonds, cash/cash equivalents given lack of clarity as to their treatment we suggest not including them in the method/calculation for the purpose of these Guidelines.**

<ESMA\_QUESTION\_FUNA\_0>

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

<ESMA\_QUESTION\_FUNA\_1>

As mentioned in our introductory remarks CG doesn’t agree with using quantitative thresholds based on holdings to assess and allow ESG or sustainability-related terms in a fund’s name. We are not convinced that the suggested approach that links ESG-related names to specific minimum thresholds on the fund’s holdings is appropriate in ensuring the robustness and credibility of the fund’s ESG commitments as appearing in its name.

There are several reasons we remain sceptical as regards this approach:

- Firstly, there is continuing lack of clarity on what constitutes “sustainable investment”, how to measure different characteristics (incl. PAIs and DNSH), what is the weighting of different types of assets in relation to taxonomy-alignment etc. This is also underlined by the fact that both the EC is still in the process of publishing Q&As and ESAs will further publish guidance to clarify metrics and application in relation to the SFDR.

- Attributing a percentage of holdings to ESG objectives and/or characteristics in the current context will result in different, non-comparable assessments and arbitrary decisions on how/which assets are allocated to ESG commitments. This is far from reducing greenwashing risks and enhancing clear understanding on what a fund with an ESG-related name does.

- In addition, requirements set on such thresholds would only increase reliance on third party data at a time when there is increased concern among regulators about the lack of transparency regarding their methodology and underlying criteria.

- The criteria may be slow moving and not reflect the best scientific or other evidence of what is sustainable.

- On a more general note, a calculation solely on the base of holdings doesn’t allow a comprehensive look on whether/how the investment process reflects what is marketed under the fund’s name. Going directly to outcomes of an investment process will not ensure that these are the result of a robust commitment and investment process and not just a selection of assets that under current reading can fit specific thresholds.

- The later can be misleading if not linked to robust binding process. What remains key is ensuring transparency around methodology and process along with clarity on the definition the fund manager is using for key pieces (for example regarding sustainable investments).

- We also note that there is important regulatory unclarity for how specific assets such as derivatives and sovereign bonds can be treated for calculation models under SFDR and Taxonomy. Given the ongoing ambiguity as to what applies we would not see fit to include in such calculations related to the name of the fund these assets.

- Finally, such thresholds may contradict existing regulatory limits set as to the assets held by a fund. We note as an example CSSF’s FAQ - Law of 17 December 2010 justifying investment funds to hold liquid assets beyond 20% because of exceptionally un-favourable market conditions, having regard to the interests of the investors (for instance in highly serious circumstances such as the September 11 attacks or the bankruptcy of Lehman Brothers in 2008 – see Question 14 of the CSSF’s FAQ).

For these reasons, CG considers more appropriate to apply a process-based (instead of an outcome-based) approach, i.e., instead of attributing holdings under set thresholds we suggest:

- Demonstrating in a clear way the ESG integration strategy via specific binding elements of the investment process and how these apply on asset allocation.

- Explaining how ESG and sustainable considerations are defined.

- Reporting on outcomes should also occur, but in a complementary way not as the key criterion to be fulfilled against specific percentages.

We also suggest as a general approach to apply rules on fund names only for investments in transferrable securities, and a clear view is in place on how to take them into consideration for ESG considerations.. For other assets such as derivatives, sovereign bonds, cash/cash equivalents and given lack of clarity as to their treatment we suggest not including them in the method/calculation for the purpose of these Guidelines.

<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>

We don’t agree with the proposed threshold, see our response to the previous question.

<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>

We don’t see merits with including an additional threshold related to minimum proportion of sustainable investments. The sustainable investments under article 2(17) of SFDR require further regulatory clarity prior to becoming a standard that can apply consistently across all market participants and generate comparable results. See also our response to Question 1.

<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>

We don’t believe a threshold mechanism and an outcomes-based approach is an appropriate way to set common rules for funds with ESG or sustainability-related terms in their names.

CG considers it more appropriate to apply a process-based approach that will:

- Demonstrate in a clear way the ESG integration strategy via specific binding elements of the investment process and how these apply on asset allocation.

- Explain how ESG and sustainable considerations are defined.

See also our response to Question 1.

<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 an approach based on the investment process and its binding elements is a more appropriate approach compared to the one suggested in the Consultation that is based on outcomes. See also our introductory remarks and our response to Question 1.

<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>

For SFDR article 8 and article 9 funds that have Sustainable Investments there is a DNSH test in place applying across the whole portfolio, and good governance to some other assets. This key requirement ensures minimum consistency for all assets of a fund (both those related to Sustainable Investments and other assets).

We acknowledge DNSH is a process that is still to be further specified. On the other hand, this allows adjustments and takes into consideration the characteristics of different strategies and underlying assets. The selection of specific exclusion criteria to apply on every portfolio (including the exclusion criteria of Paris-aligned Benchmarks) would end up with criteria non-properly calibrated to different fund strategies and is a less comprehensive approach compared to DNSH that applies to all assets.

<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>

No, we believe that for derivatives along with other asset classes, such as sovereign bonds and cash/cash equivalents it still isn’t clear what the expectations are from current regulatory guidance. Moreover, given lack of market-wide best practice or common agreement on the way to include them in such calculations we consider it is best to not include them for now in the scope of these Guidelines.

<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>

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<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>

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<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>

TYPE YOUR TEXT HERE

<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>

Defining terms such as “transition”, “transitioner”, “improvers” remains difficult at the current stage of a constantly evolving regulatory and market landscape. Should such terms appear in a fund’s name there needs to be a clear demonstration on the definition that is used and how it is integrated in the investment strategy.

<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>

Changes that will apply for existing funds with ESG-related names include updates in Prospectus/marketing materials that will also involve lengthy regulatory processes and lead potentially to re-submissions. It would be best to allow sufficient and longer transition period of 18 months.

This is also recommended as clients will need to get familiar with the new rules and understand how existing funds would need to apply new criteria. To note that the industry distribution standard template (EET) which is a useful tool for market participants, may also need to be updated to reflect these changes.

<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>

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<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>

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<ESMA\_QUESTION\_FUNA\_16>