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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 | BEAMA |
| Activity | Banking sector |
| Are you representing an association? |  |
| Country/Region | Belgium |

# Introduction

Please make your introductory comments below, if any:

<ESMA\_QUESTION\_FUNA\_0>

BEAMA is of the opinion that no new/additional regulation is needed in relation to fund names. The existing and extensive SFDR package sufficiently promotes transparency by requiring substantial disclosures towards end investors. SFDR already encompasses an easy to use fund classification ranging from art.6, to art.8 funds promoting Environmental and Social characteristics and art.9 funds pursuing an environmental or social objective. Introducing thresholds is a way to convert a disclosure regime into a label regime.

<ESMA\_QUESTION\_FUNA\_0>

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

<ESMA\_QUESTION\_FUNA\_1>

BEAMA is of the opinion that no new/additional regulation is needed in relation to fund names. The existing and extensive SFDR package sufficiently promotes transparency by requiring substantial disclosures towards end investors. SFDR already encompasses an easy to use fund classification ranging from art.6, to art.8 funds promoting Environmental and Social characteristics and art.9 funds pursuing an environmental or social objective. Introducing thresholds is a way to convert a disclosure regime into a label regime.

Especially the reference to the SFDR sustainable investments concept is an issue as this may rely on different approaches and so the proposed quantitative thresholds will in reality refer to different kind of outcomes, leaving the greenwashing issue unsolved. What the sector currently does need, is additional guidance from the European Commission on the concept of sustainable investments under SFDR.  
~~Given the lack of concrete definition of sustainable investments, we deem it to early to propose quantitative thresholds or to discuss the level of those.~~

If rules/guidelines are to be developed regarding fund names, then ESMA should develop those at European level hereby superseding all the initiatives that certain national competent authorities are currently trying to impose/develop at national level.

Furthermore, if new guidelines are to be imposed by ESMA at European level, then the necessary flexibility should be foreseen around passive breaches of quantitative thresholds. If due to exceptional market circumstances, the fund temporarily falls below a regulatory threshold by a small amount, then this passive breach should be treated analogously to how they are all treated nowadays.

Finally, if new guidelines and/or quantitative thresholds are deemed necessary by ESMA, then they should apply to the whole portfolio as well as to all financial products (and not merely funds) so as to help the final investors to make an informed investment decision.

<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>

As indicated in question 1, BEAMA is not in favor of introducing new/additional guidelines.  
Yet, if quantitative are deemed necessary, then BEAMA suggests to impose one absolute quantitative ESG-threshold which is calibrated in such a manner that it is applicable to all kinds of funds’ asset classes (bonds, equities, mixed, …), and even to all kinds of financial products. When calibrating this ESG-threshold, it will become clear that 80% is too high. BEAMA suggest to use a 50% thresholds which guarantees that the majority of the underlying assets comply with the threshold.

Besides this absolute quantitative threshold, BEAMA also suggests to allow alternative quantitative thresholds as long as they can demonstrate that the ESG-characteristic of the fund is guaranteed. One such threshold could be a relative threshold, meaning: the fund relatively outperforms the benchmark on a specific quantitative threshold (for example, a threshold based on KPI’s).

<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>

In line with our answer in question 1 and 2, BEAMA is not in favor of introducing new/additional guidelines. Yet if these kind of guidelines/thresholds are to be introduced, they can only be valid if there is a definition for sustainable investment and if the idea of a relative quantitative threshold is supported (as explained in our answer to question 2).

Still, of utmost importance is the fact that the concept of sustainable investments is yet not precisely defined (bearing in mind that the European Commission is still to respond to the request for clarification made by the ESAs on September 22) and that the industry is in urgent need of clarification.

<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 indicated in questions 2 and 3, we see an alternative in using a relative quantitative threshold. Thus, in for example, proving that the fund beats a given benchmark based on a quantitative criterium.

<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, as indicated in questions 2 and 3, we see an alternative in using a relative quantitative threshold. Thus, in for example, proving that the fund beats a given benchmark based on a quantitative criterium.

<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>

BEAMA opposes the ESMA idea of introducing minimum safeguards via the proposed guidelines. This is a task of the European Commission which, in addition is currently working on the introduction of minimum safeguards. In short, ESMA should not pre-empt the work that the EC will soon propose.

Moreover, the current ESMA proposal puts too much emphasis on the environmental aspect.

Once there are minimum safeguards, they should only cover the percentages to which the quantitative thresholds relate.

Moreover, they should not refer to cash nor to derivatives held temporarily or for hedging purposes.

<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>

In general, there is currently no regulatory or market standards as to how derivatives shall be taken into account for ESG considerations: scope, calculation methodology, treatment of exclusions, …. This goes beyond the fund naming rules. BEAMA believes there should be a taskforce at EU level to set appropriate standards.

<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>

No feedback.

<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>

No feedback.

<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>

BEAMA is of the opinion that the same requirements for funds’ names should apply to all funds, and more generally to all financial products.

To this extent, the manufacturers of ESG/sustainable indexes should be subject to these guidelines so that indexed funds can use a name in line with guidelines applying to funds.

<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>

No feedback.

<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>

BEAMA is of the opinion that the same (quantitative) requirements for funds’ names should apply to all funds, and more generally to all financial products. Thus also for financial products incorporating impact or impact-related terms in their product name.

In addition, given the specific nature of impact products, BEAMA suggest to impose the requirement that financial products using impact or impact-related terms in their product name should clearly demonstrate what the measurable impact for this product was. For example, clearly indicate the real positive PAI evolution of the product during the last period.

<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>

In our understanding, the response to this question requires a clear definition from the European Commission of what “transition” entails and a clear indication of how transition can be taken into consideration.

Our suggestion would be that transition would fall within the scope of the to be reviewed definition for sustainable investments.

<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>

BEAMA is definitely of the opinion that these proposals should also be applicable to other financial products.

<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>

BEAMA asks for at least 12 months transition period.

Furthermore, the time to implement any clarification from the European Commission about SFDR’s sustainable investments should be factored in as well. In other words, BEAMA is of the opinion that ESMA should also take into account the regulatory developments at EU-level on sustainability (e.g. the outstanding questions raised by the ESAs to the European Commission on September 22).  
Therefore, a 12 months transition period seems to be the bare minimum according to BEAMA.

<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>

BEAMA is of the opinion that the naming-related provision should not be extended to closed-ended funds which have terminated their subscription period before the application date of the Guidelines, because on the one hand the amortization period for these funds would make it difficult to match over the entire duration of the fund, and on the other hand investors are no longer able to invest in these funds.

<ESMA\_QUESTION\_FUNA\_14>

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

<ESMA\_QUESTION\_FUNA\_15>

BEAMA is of the opinion that the potential impact from the introduction of the proposed guidelines significantly depends on the following elements:

* The quantitative ESG- and sustainable investments thresholds;
* Any new/additional requirements ESMA might finally impose;
* How the proposed guidelines will be implemented to all other financial products.

Depending on the outcome of these elements, the impact might range up to being very strong/severe.

<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>

A possible change in methodology would have consequences at the level of the precontractual and periodic reports, on the level of the product name, and might lead to additional training/upgrading of staff. Ultimately, this will be translated into additional operational costs which are difficult to assess at this point.

<ESMA\_QUESTION\_FUNA\_16>