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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 |   |
| Activity | Banking sector |
| Are you representing an association? |[ ]
| Country/Region |   |

# Introduction

Please make your introductory comments below, if any:

<ESMA\_QUESTION\_FUNA\_0>

INVERCO is the Spanish Association that brings together the Spanish Collective Investment Schemes (“CIS”) (both Funds and Companies), the Spanish Pension Plans and Funds (“PFP”) and the foreign CIS registered with the Spanish Securities and Markets Commission (hereinafter, the “CNMV”) for them to be marketed in Spain, as well as various Associate Members.

INVERCO appreciates ESMA's efforts to provide harmonized criteria for the naming of Funds and welcomes the opportunity to participate in this Consultation. Likewise, we hope that ESMA considers the comments below and rethink the content of the proposed Guidelines to avoid negative impacts on the credibility of Funds, the European sustainable finance package itself, as well as investor confidence (which is key for the effective redirection of capital to investments enabling the green transition).

Before going into more detail on the content of the Consultation, this introduction includes preliminary considerations that should help putting the following answers into context:

1. **The role of ESMA Guidelines in the current sustainable finance framework**:

The European Commission's (EC) Sustainable Finance Action Plan has sponsored the development of a complex regulatory package that pivots around the application of SFDR, as of March 2021.

Although the initial objective of SFDR was not to classify investment products according to their ESG commitment, the delay in the approval of a harmonized ecolabel (or similar regime) has led Articles 8 and 9 of the SFDR to act as a substitute for the latter.

That is, in the absence of better regulation, both financial industry and investors have been using SFDR as an ESG product classification system (non-green, light green, dark green products). For that reason, it is inappropriate that at this stage ESMA Guidelines provisionally change the rules of the game.

The green transition needs investment. However, fragmented, incoherent and changing regulation works against investor certainty. In that sense, **ESMA** **has a fundamental role to play in providing guidance that promotes uniform compliance with regulations, but** **it should avoid introducing new, overlapping, and inconsistent criteria due to delays of the European legislator in e.g., specifying which products should be subject to Articles 8 and 9 of SFDR**.

Finally, in relation to the “risk of greenwashing” referred to by ESMA in the Consultation, it should be recalled that the European Supervisory Authorities (hereinafter, the “ESAs”) have just published a call for evidence to define this concept, to comply with an EC mandate of 23 of May 2022. Thus, it would be advisable that, as long as it is not legally defined, any ESMA rule or Guideline should avoid making reference to possible greenwashing risks or practices by Fund Managers in order not to undeservedly jeopardize the reputation of this sector.

1. **The need for rules for the naming of Funds:**

Funds are subject to authorization and supervision requirements so that the information provided to investors is fair, clear and not misleading. It is, in fact, the most transparent product offered to investors, with information previously scrutinized by National Competent Authorities (NCA).

In particular, the marketing of Funds in the EU requires the prior completion of a registration process that affects, among others, their denomination. Thus, **the name of a Fund should have all the credibility that is linked to an authorization granted by an NCA**.

In fact, it seems that the focus has been placed on the name of Funds precisely because of the high level of transparency and supervision that the product offers. In this sense, Funds are an ideal testing ground for this kind of requirements: ESMA can conduct immediate analysis of samples, draft new rules and, if those work properly in practice, propose their application to other saving or investment products.

However, the above way of proceeding may unintentionally become a threat to the confidence that investors have in Funds. That is, **such a change in Funds’ naming requirements may be understood as a problem of the product and not of prior applicable regulations**.

It is therefore important that the final Guidelines are framed in terms that adequately gauge the cost-benefit of new requirements.

1. **The appropriateness and urgency of the proposed Guidelines**

**The naming of products according to their ESG bias would merit a calm debate at ESAs level to comprehensively address the costs and benefits of establishing this type of rules for all kind of investment and saving products that are marketed to consumers**. Then, the ESAs may propose the adoption of new financial products naming rules in the context of the ordinary European legislative procedure[[1]](#footnote-2).

The proposed Guidelines are not consistent, efficient, and effective supervisory practices ensuring the common, uniform and consistent application of Union law, as provided for in Article 16 of Regulation (EU) No 1095/2010 establishing ESMA (hereinafter the "ESMA Regulation") but goes much further. **Thresholds and additional minimum safeguards to use sustainability or ESG related terms in Funds’ names, if adopted, would constitute substantive regulation** **that should be addressed by EU co-legislators when providing for new eco-labels or financial products’ marketing rules**.

Furthermore, Funds’ names are *passported* from the Member State of origin to the host Member State by virtue of the *mutual recognition principle* provided by EU law. Therefore, **to develop such a substantive regulation, ESMA should be previously empowered to draft regulatory or implementing technical standards on the naming of Funds that shall be subsequently adopted by the EC**.

Indeed, the issue of the naming of funds is currently being discussed in the context of the reform of the AIFMD and UCITS Directive. Such reform could serve as a gateway for sustainable fund naming requirements but has not yet been approved and, in the meanwhile, ESMA should not provide for guidelines ignoring all the above.

Thus, the approach adopted by ESMA in its Supervisory Instructions for NCAs of May 2022, which effectively focuses on achieving convergence in the application of the regulations, is much more appropriate.

1. **The need for adoption by all European supervisors**

If the ESMA Guidelines are to have any success in terms of standardization, they need to be adopted by all NCAs in the Member States. However, this is unlikely since the proposed Guidelines have a strong impact on the catalogue of Funds already registered and are disruptive for the Funds market.

Funds whose NCAs do not adhere to the Guidelines would be in a better position, giving rise to a problem (heterogeneity between countries) additional to the one that is intended to be fixed (heterogeneity between products). This would, in turn, threat the confidence in the single European financial market.

For the ESMA Guidelines to fulfill their intended purpose, the adherence of all the NCAs is key. Otherwise, the ESMA Guidelines themselves would end up being an obstacle to the achievement of the single market, either by being an element of differentiation in funds regulation, or by being an instrument that limits the operation of the European *passport* (calling into question the principle of mutual recognition of Funds authorized in another Member State).

1. **Possible undesired effects of the Guidelines in their current wording**

It is advisable to avoid some of the most negative impacts that the Guidelines, as currently drafted, could entail:

* The overlap and generation of inconsistencies with existing sustainable finance legislation and, possibly, with the future ecolabel.
* The risk of entities restricting the launch of more funds with a sustainable bias due to excessively strict or inappropriate criteria (as in the case of the proposed minimum guarantees).
* Increasing difficulties in understanding the differences between the various sustainably biased saving-investment financial products and the different levels of protection faced by investors.
* The costs arising from continuous regulatory changes at the level of local authorities, institutions and ultimately participants.
* Or the high reputational risks arising from the incorporation of non-cross-cutting sustainable finance criteria across instruments.

<ESMA\_QUESTION\_FUNA\_0>

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

<ESMA\_QUESTION\_FUNA\_1>

INVERCO appreciates ESMA's effort to establish criteria to reduce the heterogeneity of supervisory practices in the EU but, as above mentioned, quantitative thresholds would have a disruptive effect which would be preferable not to introduce via Guidelines.

Such Guidelines could undermine the credibility of those Funds that have been making an effort to align themselves with sustainability, while remaining at the mercy of what happens with the next wave of reclassifications by virtue of, among others, prospect SFDR modification and/or clarification of concepts such as "sustainable investment" or the “consideration of principal adverse impacts” (PIAs) (as requested by the ESAS to the EC in September 2022).

Moreover, it is unlikely that the Guidelines with the proposed thresholds can solve the problem of market fragmentation in the EU:

* Firstly, the "ESG-related words" concept, is an indeterminate legal concept. If it is not specified which words fall under this category, each NCA will make its own interpretation, with the consequent application of different criteria in each jurisdiction. For example, is the term "health" an ESG-related term in all cases? Or does it have to be in combination with some other word for its inclusion to be subject to any restrictions? When is a combination of words necessary for it to be considered an ESG-related term?
* There would be a potential variety of methodologies for the calculation of the relevant thresholds.
* Thresholds for Fund names fall short of increasing investor protection: The consumer who receives, as usual e.g., in a branch of any distributor, offers on a range of savings-investment instruments does not experience increased protection because of the application of these thresholds (only) on Investment Funds.
* Finally, a pre-condition for the ESMA Guidelines to have any success in terms of standardization is that these are adopted by all ANCs, which appears to be unlikely.

Should ESMA nevertheless decide to maintain the threshold approach for the naming of Funds, it should seek a formula that minimizes divergencies, as well as the operational and reputational costs of implementation. In this regard, see answer to questions 2 and 5.

<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>

No, and in addition to the above considerations on thresholds, the following should be noted:

* + In line with ESMA’s Supervisory Instructions of May 2022, it could be envisaged that the acronym ESG or similar could be used when the Fund's assets substantially support, with at least 50% of the investments, the sustainable investment characteristics or objective. In fact, the 50% threshold would be easier to understand to the average consumer, less arbitrary and possibly acceptable to the market in general.
	+ Moreover, if the 50% threshold has been proposed for the use of the term "sustainable" in "sustainable investments", the same should apply for the use of "ESG-related" terms.
	+ The 80% threshold provides the market with a misleading signal: In particular, that the threshold is higher because of the lower credibility of the investments it refers to, even though they could be just as critical, if not more so, for the green transition.
	+ It is not reasonable that a Fund that has e.g., 75% sustainable investments aimed at the development of technology and tools for the rationalization of water resources consumption cannot include the term "water" in its name (since most of its investments have to do with its protection). Nor can we understand that a Fund an art. 9 SFDR Fund with a commitment to make 75% of sustainable investments cannot use ESG terms in its name if an art. 8 SFDR Fund that meets the 80% threshold, with 0% sustainable investments, can do so.

Such a rule tends to produce arbitrary results without increasing investor protection.

Regarding the term “impact”, see question 10.

<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>

INVERCO does not consider it appropriate for the thresholds to work in an additive manner.

It would be more logical for them to operate independently and on the assumption that the product exceeding the "sustainable investments" threshold can also make use of the acronym "ESG" or related terms, in accordance with the general principle *"Qui potest plus, potest minus"* ("*he who can do more can do less*").

In any case, ESMA should review the wording of the proposed Guidelines to clarify whether these are thresholds that operate in an additional (achievement of a threshold conditional on meeting a previous threshold) or an independent way.

If they end up being additional to each other, it would also be desirable to expressly clarify whether the 50% percentage would apply to the total value of the investments or to the value resulting from applying the first percentage (i.e. 50% of 80%, which would be equivalent in absolute terms to 40% of the value of the investments).

On the other hand, the use of terms such as "sustainable" or "sustainability" in the Fund name cannot be subject to the realization of the "sustainable investments" referred to in art. 2.17 of SFDR exclusively, since this is just one of the various approaches to sustainability provided by applicable regulations. Furthermore, sustainable investment is a concept pending harmonization.

Therefore, in order not to undermine the credibility of sustainable finance, the definition of "sustainability preferences" contained in the Commission's Delegated Regulation (EU) 2021/1253 of April 21, 2021, must be considered so that investments aligned with the Taxonomy or those taking PIAS into consideration are also deemed sustainable.

In this sense, and in order not to further confuse the retail investor, ESMA Guidelines should not identify as "non-sustainable" those products that must be offered to clients who have opted for a PIAS or Taxonomy alignment approach when disclosing their "sustainability preferences" in the MiFID suitability test.

<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>

See questions 1, 2 and 3.

<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, there are alternatives to the proposed thresholds.

1. **Alternatives to the threshold approach:**

As above indicated, instead of the proposed thresholds to opt for one or another denomination, the approach adopted by ESMA in its Supervisory Instructions of May 2022 is considered more sound.

Those Instructions stated that NCAs should ensure that the use of ESG references in the designations is limited to those cases where it is evidenced to be appropriate, substantially supported by the Fund's investments and considering the sustainability objectives or characteristics of the vehicle. Those Instructions (i) were compliant with the concept of Guidelines and Recommendations contained in Article 16 of the ESMA Regulation and (ii) did not include overlapping rules which were inconsistent with existing legislation.

However, if ESMA wants to develop more detailed criteria, instead of thresholds, Guidelines may follow a strategy-based approach and investment decision-making processes consistent with SFDR. An example may be as follows:

Products with higher ambition ("dark green"), in terms of denomination, may be required to have:

* A measurable sustainable investment objective
* An investment strategy aligned with the stated sustainable target.
* A minimum investment committed to the investment strategy.
* KPIs aligned with the target and track them.
* Governance and organizational structures necessary to be able to achieve the target.
* An engagement policy aligned with the achievement of the objective.

“Light green" products may be required to have:

* An investment strategy aligned with the characteristics to be promoted.
* A minimum investment committed to the investment strategy.
* Clear and measurable KPIs on the strategy and track them.
* Governance and organizational structures necessary to be able to achieve the characteristics being promoted.
1. **Alternative to the proposed thresholds**:

Should ESMA decide to maintain the thresholds approach, it would be advisable to consider alternatives in line with the following:

* Equal and independent thresholds: Setting equal and independent thresholds eliminates potential inconsistencies in the use of ESG-related terms.
* Progressive approach: It is proposed to start with 20% (2025), 30% (2026), 40% (2027), 50% (2028) in such a way that minimum standards are collected in line with the reality of the sustainable asset market and its foreseeable evolution as access and quality of sustainability data progresses, taking as a reference e.g. the staggered application of CSRD or the ESAP ("European Single Action Point") initiative.
* Set up of a 12-month remediation period for passive breaches of thresholds: It is key for a correct and stable operation of the thresholds that avoids legal uncertainty and unnecessary operational costs. In addition, a term such as the one proposed, allows sufficient flexibility to adapt to changing definitions and concepts such as those that arise around a constantly evolving regulation such as the sustainable finance regulation.
* Publication of an open list of terms related to ESG and sustainability: For the sake of legal certainty, as well as to avoid the proliferation of divergent criteria at the local level, at least an open list of terms should be provided (which ESMA may feed as market practice evolves).

<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>

Among all the elements of the draft Guidelines, the proposed additional minimum safeguards are considered particularly inappropriate.

On the one hand, because it would be a matter of substantive product regulation that must not be addressed via ESMA Guidelines, but rather within the regulation of eco-labels or the amendment of the current disclosure regulation, a matter for which the intervention of the European co-legislators is necessary.

On the other hand, it is not appropriate to apply the exclusions of the EU Paris-aligned Benchmarks (PAB) so that the Funds can use ESG terminology in their denomination, as it would be inconsistent with applicable regulations:

* The EU Climate Transition Benchmarks (CTB) do not apply the same exclusions and their name, chosen by the European legislator, includes the term "climate transition". It makes no sense that the term “climate transition” is prohibited in the name of funds with investments equivalent to those included in a CTB.
* SFDR refers to products subject to arts. 8 and 9 using terms related to sustainability (e.g. "promotion of environmental or social characteristics" or "sustainable investment objective"). It would be confusing for investors that a product subject to a regulation that recognizes that it "promotes environmental or social features" could not include any of these terms in its name (unless it complies with all the exclusions applicable to PAB).

Finally, criteria of this type make sustainability an unacceptable commitment for Fund managers who, in the absence of data and scarcity of sustainable assets, must continue to build diversified portfolios. In the current situation, ESMA should avoid that those managers are prevented from launching more funds with a sustainable bias because they cannot even be sold as such.

<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>

As a matter of regulatory consistency, derivatives should not be included in the calculation of the proposed thresholds.

However, the criterion adopted for calculating the KPI developed to disclose information referred to in art. 8 of Taxonomy Regulation as regards derivatives is debatable. They may not be the most direct way of financing sustainable companies, but they can be an instrument that, from a financial point of view, facilitates the transition.

Considering the above, ESMA should look for a consensus on the calculation of thresholds before adopting the final guidelines. A different outcome could expose market participants and underlying investors to a variety of different methodologies as regards the calculation of thresholds which may be contrary to the aim of the proposed 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>

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>

No, the approach adopted in the ESMA Supervisory Instructions in May 2022, with specific criteria for the naming of Funds that replicate an index, would be more appropriate.

Notwithstanding the above, if the threshold approach is maintained, thresholds should also apply to funds that replicate benchmarks. In addition, see answer to question 6, which addresses other issues stemming from the additional minimum safeguards.

<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>

It depends on the approach taken to derivatives.

<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>

Firstly, to have specific provisions for “impact” investing, it would be very useful to have a legal definition of what is considered impact.

However, since there is no legal definition of “impact” and to avoid further confusing investors/the market, it would be appropriate to include the concept already provided for in the ESMA Supervisory Instructions, which indicates that "impact investment" is that made with the intention of generating a positive and quantifiable social and/or environmental impact, together with financial profitability.

It is noted that a significant proportion of Funds with a sustainability bias meet the above definition and there is no reason to impose more specific rules on naming.

<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>

To avoid divergences and asymmetries between jurisdictions, before establishing specific provisions for the inclusion of the term “transition” or transition-related terms, it would be useful to have a legal definition for the term “transition”.

Since the objective of the sustainable finance package is to redirect investments towards more sustainable technologies and companies, rules should be included that do not penalize investments focused on transition. Please note that contributing to the financing of companies that make a real effort to be more sustainable contributes substantially to a just transition and rules on denominations that do not take this into account would go against the objective of the sustainable finance package.

Additional minimum safeguards, among others, would have a very negative impact on Funds that invest in transitioning companies.

<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>

INVERCO considers that the naming of products according to their ESG bias would merit a calm discussion at ESAs level for the latter to make a proposal to the EU legislator.

To preserve a level playing field and avoid different levels of investor protection, it seems reasonable to adopt equivalent measures applicable to the rest of the products marketed to retailers.

<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>

On the one hand, it would be useful to clarify whether the 6 months foreseen in the Guidelines for the transitional period are additional to the 3 months established for the effective application of the new requirements.

On the other hand, a period of 6 months would be insufficient, not only because of the need to carry out a new modification of Funds documentation, but also because of the difficulties arising from the product definition process itself: Analysis and design, internal approval processes, information to unitholders, liaison with NCAs, handling reputational risks and avoidance of claims and redemptions.

In view of the above, it is considered more convenient to have a transitional period of at least 12 months.

<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>

The retroactivity of the Guidelines is totally inappropriate. Under no circumstances should they be applied to Funds in which no new subscriptions can be made or Funds that are not actively marketed.

Note that these Guidelines work against legal certainty because they impose new rules on Funds that were launched and marketed, in many cases, in compliance with SFDR but that must bear the operational and reputational costs arising from new naming rules.

In the Spanish market, the above may also be the case of funds such as guaranteed funds or funds with an objective return, which have closed structures whose name at the time of their launch complied with the current regulations and were marketed as such to unitholders. Adapting these structures to the proposed requirements would entail very high costs that would not result in greater protection for the unitholders, nor for potential new investors, since they work as closed-ended Funds for new subscriptions purposes.

Again, this type of measures would not serve to support the transition.

<ESMA\_QUESTION\_FUNA\_14>

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

<ESMA\_QUESTION\_FUNA\_15>

The success of the Guidelines would very much depend on their adoption by all NCAs, which is highly unlikely. It is therefore important that the final Guidelines are framed in terms that adequately gauge the cost-benefit of new requirements.

Thus, it is key to avoid the negative impacts hat the Guidelines, as currently drafted, would have:

* The overlap and generation of inconsistencies with existing sustainable finance regulations and, possibly, with the future ecolabel.
* The risk of entities restricting the launch of more funds with a sustainable bias due to excessively strict or inadequate criteria.
* Increasing difficulties in understanding the differences between the various sustainably biased savings-investment financial products and the different levels of protection faced by investors.
* The costs arising from continuous regulatory changes at the level of local NCAs, investment managers and ultimately unit-holders.
* High reputational risks arising from the incorporation of non-cross-cutting sustainable finance criteria across financial products.

<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>

See answers 15 and 13.

<ESMA\_QUESTION\_FUNA\_16>

1. It could be included in proposals to be submitted by ESAS to the EC in response to its August 2022 EC Request for Advice on monitoring sustainable finance policies and the risk of greenwashing. [↑](#footnote-ref-2)