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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 | Finance Finland |
| Activity | Other Financial service providers |
| Are you representing an association? |  |
| Country/Region | Finland |

# Introduction

Please make your introductory comments below, if any:

<ESMA\_QUESTION\_FUNA\_0>

Finance Finland represent different financial service providers in Finland e.g. Asset Managers, Banks, Insurance and pension.  
  
Please find below our comments from the Finnish Asset Management point of view. We are a member of Efama and refer to their response in more detail.

<ESMA\_QUESTION\_FUNA\_0>

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

<ESMA\_QUESTION\_FUNA\_1>

We support the proposed guidelines’ objective of avoiding misleading information. We agree with the view that funds’ names or any other marketing communications should not be misleading. However, we think that the proposed guidelines with quantitative thresholds are premature at this stage. This is for two reasons:   
  
First, in our view the current regulations already prohibit misleading information. There may individual cases which require appropriate attention, but these should be first handled by using supervisory and enforcement tools. Regulatory measures should only be used if there is evidence of a failure of the current regulation.  
  
Second, using quantitative thresholds raises numerous questions about the application of the rules. Quantitative thresholds are not used in the relevant EU legislation (SFDR, MiFID and IDD). Introducing such thresholds for funds’ names in isolation from the regulatory regime puts too much emphasis on a single detailed criterion. Lastly, we note that some central definitions like “sustainable investments” have not been harmonised.  
  
So, while recognising the positive objectives, we see the proposals premature at this stage.

<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>

If ESMA would continue with thresholds, more flexibility is needed. The 80% threshold might work in many situations. However, there are many circumstances where a hard 80% limit would create difficulties and ultimately be against the interest of investors. This is especially the case with cash and derivatives in extraordinary market circumstances. EU institutions are currently finalising the changes to the UCITS and AIFMD with particular focuson liquidity management. A non-flexible 80% limit might limit the fund manager’s options to address market situations.  
  
We also note that there should be appropriate flexibility and guidance on how to address potential breaches of the thresholds caused by market movements or redemptions/subscriptions as is the case with investment limits in the UCITS directive.

<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>

Referring to our response in Q1, we note that the word “sustainable” is not defined in the EU regulation. Furthermore, we would challenge whether a typical retail investor is able to differentiate between the different proposed terms such as “sustainable”, “ESG” and “green”.  
  
We also note that there are different calculation methods (unit-based and activity-based methods), and the proposal would give advantage to the unit-based method. This may create a bias towards equity funds being more likely to meet the threshold, which may lead to risk adverse investors taking more risk than they would like to.

<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>

The basic requirement that funds’ names should not be misleading could be met with a requirement that ESG- or sustainability-related terminology can only be used when it is supported in a material way and reflected in the fund’s investment policy and objectives as described in relevant fund documentation.  
  
Alternatively, fund naming could be aligned with the way funds are classified under SFDR and offered under MiFID/IDD delegated acts.

<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>

Instead of having thresholds, general rules and guidelines should be used.

<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>

No, in our view such a requirement would go beyond the current requirements of the SFDR. If additional exclusions and criteria are needed, they should be included the requirements for Article 8 and Article 9 of SFDR, not in guidelines on funds’ names.  
  
The regulatory structure is already complex and should not be made even more complex.

<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>

The UCITS directive already includes rules on how to calculate the influence of derivatives. Regarding sustainability, it is very early to classify derivatives. Further guidance in this respect is needed but naming of funds is not the right place. Implementation guidance for SFDR would be a better place.

<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>

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<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>

Yes, we agree. There has to be level playing field between products, including index funds and ETFs.

<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>

Possibly yes, but as mentioned in our previous response, such guidance should be included in the SFDR guidance, not in a guidance dedicated to funds’ names.

<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>

No, existing rules and guidance should be sufficient.

<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>

Not in this guidance. If clarifications are needed, they should be in the SFDR guidance.

<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>

If the name of an investment product is considered important information to investors, this should be addressed horizontally and a level playing field should be ensured.

<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>

A transitional period is needed. We would propose 12 months. The process of changing fund names is not that simple. It includes the necessary formal meetings, changes to prospectuses/fund rules, marketing materials, training, website, etc. The costs depend very much on whether the changes can be done in the normal cycle of updating the prospectuses and other materials. If specific processes are needed, the costs will be much higher.  
  
We also note that such changes need to be approved by national competent authorities. Too short a timeframe would create unnecessary bottlenecks.  
  
Lastly, we note that with this kind of guidance it is necessary to see the final translations into national languages before making the final changes. Therefore, we do not agree with the statement by ESMA in open hearing that it is possible to make the changes based on draft English texts. This may be true for some issues like internal processes, but in relation to defined terms you need to have the final ones in local language.

<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>

No, they should be out of scope. The starting point for the proposed guidelines is that the name is an important factor for a potential investor. In the case of closed-ended funds, which are no longer open for subscriptions, such an argument is negligible. There would be no benefit, only unnecessary costs.

<ESMA\_QUESTION\_FUNA\_14>

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

<ESMA\_QUESTION\_FUNA\_15>

We anticipate there would be additional complexity, costs and potential renaming and rebranding of many funds. In addition to these guidelines, there may be existing national guidance that would even further complicate things.  
  
As commented above, many concepts around sustainable investments would benefit from more harmonisation and guidance. The correct place for such clarifications is not the guidance on fund names but more guidance on the substance rules, for example in the SFDR.  
  
Another potential, and in our view unintended, consequence is that the proposed guidelines would favour equity investments to bond investments.  
  
As regards supervisory concerns on potential green washing, we do not think that the proposed guidelines are the best possible way to address the issue. Focusing regulatory attention to compliance with numeric thresholds and regulatory processes of changing fund names is the wrong way. Focus should be on supervising funds’ marketing and their investment policies. When there are justified reasons, appropriate enforcement actions should be used.

<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>

Changing a fund’s name includes several costs as described above. We stress that the costs depend very much on whether the changes can be made as part of regular processes or whether specific processes need to be organised.  
  
The other option is to adapt the portfolios of funds to meet the guidelines. Whether this is a feasible option depends on the product and may in some cases prove impossible. Any such change should be carefully assessed against the investment strategy as described to investors. Actual costs are difficult to estimate, but especially for some assets, they can certainly be significant.

<ESMA\_QUESTION\_FUNA\_16>