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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 | MBO & Co |
| Activity | Investment Services |
| Are you representing an association? |  |
| Country/Region | France |

# Introduction

Please make your introductory comments below, if any:

<ESMA\_QUESTION\_FUNA\_0>

We consider that the various type of ESG investing can fit in three main categories.

- **Impact oriented funds.** Such funds tend to invest predominantly in companies that provide solutions to sustainability issues. The SFDR Article 9 and the UK FCA proposal for a "Sustainable Impact" label appear to fit well with this definition.

- “**Light ESG” funds.** Many ESG funds have "lighter" screening rules on ESG issues than this first category (e.g. best-in class funds). SFDR Article 8 and the UK FCA proposal for a "Sustainable Focus" label tend to provide rules for this approach.

- **Engagement.** Some ESG funds tend to focus more on engagement with companies rather than the selection of asset in their portfolio. The UK FCA proposal for a "Sustainable Improvers" label tend to provide rules for this approach.

Although we believe labels can help to make the distinction between the different approaches, we believe regulators should be very cautious about the use of ESG / Impact or Sustainable related words in the name of the fund. We consider that “ESG”, “Impact related words”, “Sustainable” or “any other sustainability-related term” are very often used with the same meaning by many stakeholders.

As a consequence, in order to avoid greenwashing accusation, we would recommend that such wording can only be used in the name of the fund for the first category of approaches (Impact oriented funds), with minimum threshold of investment on solutions and strict exclusion criteria.

Still, for other marketing materials, it appears relevant that market participants can communicate about their ESG approach. In this case, we believe it is relevant for market regulators to provide some guidelines to market participants.

<ESMA\_QUESTION\_FUNA\_0>

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

<ESMA\_QUESTION\_FUNA\_1>

Yes

<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 stated in the introduction, we consider that “light ESG” funds should not use any ESG or impact-related words in the name of the fund. Still, for such funds communicating about ESG in their marketing materials, some rules could help to better structure the market.

For such funds, we are unsure whether the 80% threshold would be relevant. For this category of funds, we believe that close to 100% of the asset in the portfolio should go through an ESG analysis. The process to meet the environmental or social characteristics of the fund could be left to the portfolio manager (best in class approach, improvement of ratings…)

<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>

Yes

For Impact oriented funds, we believe a 50% threshold on sustainable investments is a good balance between ambition and pragmatism.

Still, the calculation methodology should be specified. We consider that a weighted average of:

- the share of a company’s activity on sustainable investment

and

- the weight in the portfolio

could be too restrictive.

The rules could be “a minimum of 50% of investment in companies with a significant (e.g. > 20%) of their sales on sustainable activities”.

Before implementing such a rule, we consider that market participants would need a clarification of “Sustainable Investment’ (article 2 (17) of SFDR) to assess the potential impact on portfolio construction.

<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 French Label Greenfin introduced a threshold mechanism with several buckets which works properly. The idea of the approach is to have:

- a minimum of investment (>20% investment) on “impact pure players” (>50% sales on impact activities).

- at least 75% of the portfolio with a significant activity on impact (>10% sales on impact activities).

Although such an approach is a little bit more technical, it is working quite well in practice.

<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>

We believe the thresholds approach is the most relevant.

<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>

Yes,

However, we consider that the current safeguards are too light. In particular, to avoid greenwashing accusations, we consider that funds with an ESG- or sustainability-related term in their name should have strict exclusion criteria around fossil fuel investments such as no investment in companies involved in the development of new fields of oil gas or coal.

<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>

N.A.

<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>

N.A.

<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>

N.A.

<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

<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>

N.A.<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>

As stated previously, we consider that “ESG”, “Impact related words”, “Sustainable” or “any other sustainability-related term” are very often used with the same meaning by many stakeholders. We consider that such provisions should apply to any of these wordings.

<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>

Transition related wordings can lead to different interpretation. If transition is related to investment in “Energy transition” such as investment in Renewables or Energy Efficiency, it should have the same provision that “ESG”, “Impact related words”, “Sustainable” or “any other sustainability-related term”.

If Transition refers to investment in “brown” assets with the purpose to improve their practices through dialogue and engagement, specific provisions might be required to explain the process and methodology.

<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>

N.A.

<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>

Yes

<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>

Yes

<ESMA\_QUESTION\_FUNA\_14>

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

<ESMA\_QUESTION\_FUNA\_15>

Clarifying guidelines surrounding sustainability claims would greatly increase the overall transparency of the financial industry, alleviate greenwashing and, as a result, develop sustainable finance. We consider that greenwashing is the result of a misalignment market participants’ understandings of sustainability. The lack of standards and shared methodologies has created blurred lines between different concepts which has been amplified by the lack of consensus on the definitions and understandings of sustainable development and "ESG" within the industry.

<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>

N.A.

<ESMA\_QUESTION\_FUNA\_16>