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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 | WeeFin |
| Activity | Other Financial service providers |
| Are you representing an association? |  |
| Country/Region | France |

# Introduction

Please make your introductory comments below, if any:

<ESMA\_QUESTION\_FUNA\_0>

Created in 2018, WeeFin aims to democratise sustainable finance by helping professional investors (AM, AO, Wealth Manager, Asset Servicer...) to create more ambitious ESG strategies and by fighting against greenwashing. In that order, WeeFin offers a platform 100% dedicated to ESG that allows investors to manage their ESG processes : centralize all sustainability data, create their own ESG scores and produce ESG reportings. As sustainability is at the heart of our strategic ambition, we want to respond to this public consultation and share our feedbacks.

WeeFin advocates encouraging financial actors to invest in a more sustainable way and to contribute to the just transition. However, as there is no single method for integrating sustainability into investment strategies; It is essential that each actor can develop its own with complete transparency.

In our view, transparency is an essential means to fight against "greenwashing" practices. For transparency to be effective, it is important that European regulators intensify their efforts to raise awareness and provide pedagogy to financial actors regarding sustainability issues. By sharing best practices and providing a better understanding of regulatory requirements, this will help to avoid subjective interpretations or misleading communications. Indeed, the current regulatory framework is often perceived as too theoretical, which can lead to confusion among financial actors.

Nevertheless, it should be emphasized that sustainability cannot be considered a homogeneous and standardized concept . Financial actors must be allowed to develop custom strategies based on their own context and vision of sustainability. However, it is essential to ensure that minimum requirements are met to avoid certain contradictions, such as a "climate" fund investing in polluting companies.

It is also important to capitalize on the existing regulatory framework, which has already been adopted by the financial industry actors.In this regard, we believe that adding new requirements as quantitative or qualitative thresholds that are disconnected from existing ones could be counterproductive and generate more confusion. Indeed, we identified multiple difficulties for professional investors to understand and coordinate the implementation of European and national regulations related to sustainable finance

In this regard, in order to mitigate greenwashing risks, WeeFin believes that this must be done through these two main axes:

* improving the transparency of the investment process in order to promote the quality of information to final investors;
* providing greater pedagogy and assistance to financial actors can facilitate the operational implementation of regulatory requirements that, as of now, can be considered as overly theoretical

We believe that the introduction of fund naming requirements could be a useful tool in the response to greenwashing, on condition that they build on the existing regulatory framework that is already incorporated by market participants, including European and national regulations and labels.

<ESMA\_QUESTION\_FUNA\_0>

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

<ESMA\_QUESTION\_FUNA\_1>

We do not agree with the need to introduce new quantitative thresholds to assess funds’ names as we consider them as additional indicators unlinked to an existing framework (SFDR, EU Taxonomy) that already constitutes a proper basis. Nevertheless, this latter needs to be reinforced in order to (i) limit greenwashing and (ii) facilitate comparisonof ESG funds.

As of now, there is no connection between European, national and label requirements. These multiple standards lead to operational difficulties for market participants and misunderstanding for final investors.

In that context, we consider that implementing new guidelines that are uncorrelated to existing requirements, would create an additional way to categorise portfolios and at the same time, would add another layer of complexity. Indeed, the SFDR classifications are not sufficient and need to be further clarified and strengthened.

We would recommend reinforcing and converging existing guidelines by (i) introducing quantitative and qualitative thresholds for Article 8 and 9 classification and (ii) associating these classifications with requirements on funds’ names.

To be noted that we consider quantitative thresholds are insufficient to assess the consistency of an ESG strategy and the sustainable investment definition used by the professional investors. Furthermore, we would recommend extending such quantitative thresholds to other specific ESG-terms (i.e. ‘biodiversity’, ‘transition’, ‘impact’, etc.).

<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 do not 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.

As mentioned in Q1, we would recommend to (i) incorporate such thresholds directly in the existing regulatory framework (i.e. reinforcing requirements for Article 8 classification) and then to (ii) increase this threshold to 100% of eligible investments (cash and hedging instruments excluded).

<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 do not agree to include an additional threshold of at least 50% of the minimum proportion of sustainable investments for the use of the word “sustainable” or any other sustainability-related term in the name of the fund.

Firstly, as mentioned in Q2, such requirements should be directly incorporated into the existing regulations. Furthermore, as of now, we do not consider SFDR guidelines regarding Article 9 SFDR sufficiently clear to take a stance on such a threshold. Notably:

(i) The definition of sustainable investment needs to be supervised in a stricter manner with dedicated guidelines. Indeed, we observe that methodologies to define and identify sustainable investment among professional investors are heterogeneous and thus the degree of ambition applied to the qualification of a sustainable investment highly varies. Thus, the percentage of sustainable investments is not representative of the level of restriction applied by investors.

(ii) The difference between ESG- and sustainable-related names are insufficiently clear. Notably,  some words that are classified as “ESG-related” could be considered as impacting as sustainability-related terms and attract investors in the same proportions (e.g. ‘climate change’, ‘biodiversity’). We propose to review what falls under the category of sustainable investment by also allowing “transitioning” and “impact strategies” to be included.

<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>

As mentioned in Q2 and Q3, we consider that these thresholds should be harmonized with the existing regulatory framework in order to avoid creating an additional complexity layer. Financial actors already have to meet threshold requirements (e.g. for Article 9) that are different from those proposed in the public consultation.

<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 propose to capitalize on the current regulatory framework to strengthen the classification of funds such as the use of the taxonomy alignment or the principal adverse impact indicators (PAIs).

Weefin recommend the implementation of minimum safeguards, such as :

* Exclusion policy (such as coal and tobacco)
* Minimum threshold on:
  + taxonomy-aligned investments combinated to a commitment to improve this rate when the data will be consistent;
  + climate alignment for funds that promote a climate objective or characteristic
  + minimum on principal adverse impact indicators.
* Implementation of an active monitoring and analysis of controversies;
* Implementation of engagement policy

<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>

We agree with the need for minimum safeguards for investments categorised as meeting the environmental or social characteristics or sustainable investment objectives.

<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>

We would recommend specific safeguards for derivatives depending on their nature. As such for any derivatives with a physical exposition, specific safeguards have to be required. Notably, we consider that (i) derivatives used for hedging purposes have to be included in the non-eligible part of the fund and subject to specific provision, (ii) derivatives used for exposition purposes have to be excluded in case of neither a minimum extra-financial analysis (i.e. for identifying potential negative impact) due to opacity (e.g. TSR) nor engagement actions are possible.

<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>

The use of the nominal value allows for more consistency with other assets and makes it easier to represent the ESG allocation of a fund.

<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>

For derivatives that cannot be subject to quantitative and qualitative requirements, it is necessary to limit them to temporary and ancillary use.

<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>

We agree that funds designating an index as a reference benchmark should also consider the same requirements for funds’ names as any other fund. To be noted, we recommend that these funds should also apply minimum safeguards (see Q5 and Q6).

<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>

Yes, it is necessary to make a distinction between physical and synthetic replication. The quantitative and qualitative requirements can only be applied in the context of physical replication.

<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>

We agree to have specific provisions for "impact" or impact-related names in these guidelines. As mentioned above, these specific guidelines should be incorporated into existing regulations, particularly as it relates to Article 9 SFDR funds.

<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>

We agree to having specific provisions for “transition” or transition-related names in these Guidelines. As mentioned above, these specific guidelines should be incorporated into existing regulations. We would recommend to reinforce the sustainable investment definition formalized by SFDR in order to include transitioning strategies. In addition, such guidelines require a more formalised regulatory framework regarding such strategies to avoid circumvention and greenwashing.

<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>

We propose to articulate these Guidelines within the same scope of application as SFDR Regulation

<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>

We agree with having a transitional period of 6 months from the date of the application of the guidelines for existing funds. This timeline is necessary to compensate for the costs for implementing new requirements. Indeed, as multiple funds with ESG- or sustainability-related terms in the name do not apply specific criteria for sustainability, new requirements are needed to limit the risk of "greenwashing". In a context where such funds are very attractive on the market, it is important to address this risk quickly. We highlight the necessity to disclose clear and precise guidelines in order to facilitate their implementation.

<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 naming-related provisions should not be extended to closed-ended funds which have terminated their subscription period before the application date of the Guidelines. As the fund is no longer open to subscriptions and therefore doesn’t continuously offer its shares for sale, there is no commercial stake. The risk for greenwashing is then limited. The implementation of such rules won’t be efficient.

<ESMA\_QUESTION\_FUNA\_14>

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

<ESMA\_QUESTION\_FUNA\_15>

The implementation of proposed Guidelines, without relying on existing frameworks (i.e. European, national and labels), would lead to confusion and complexity and finally would increase the risk of greenwashing.

Indeed, the implementation of new requirements based only on quantitative thresholds without correlation with the sustainable regulation, will not conduct professional investors to really improve their strategies. Indeed, professional investors, in order to limit the impact of such guidelines, could only implement a few adjustments in order to be aligned with these quantitative requirements without improving the ESG allocation of their assets.

<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>