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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 | First Sentier Investors |
| Activity | Investment Services |
| Are you representing an association? |  |
| Country/Region | Europe/Ireland/UK |

# Introduction

Please make your introductory comments below, if any:

<ESMA\_QUESTION\_FUNA\_0>

First Sentier Investors (FSI) is an asset management business and the home of investment teams FSSA Investment Managers, Igneo Infrastructure Partners, Realindex Investments and Stewart Investors.

Our vision is to be a provider of world-leading investment expertise and client solutions, led by our responsible investment principles.  We are stewards of assets under management of AU$215.5 billion(as at 31/12/22) across listed equities, fixed income and direct infrastructure on behalf of institutional investors, pension funds, wholesale distributors and platforms, financial advisers and their clients.

<ESMA\_QUESTION\_FUNA\_0>

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

<ESMA\_QUESTION\_FUNA\_1>

| We are generally supportive of the need to introduce quantitative thresholds such as the requirement for SFDR Article 9 products to hold 100% sustainable investments. However, we do have reservations at present about the proposed 80%/50% requirements for funds with ESG and/or sustainability-related terms for a number of reasons including the continued lack of clarity around the definition of ‘sustainable investments’ and the nascent stage of corporate sustainability data.  Furthermore, ESG funds' names can be subjective and can vary depending on the fund's investment style and strategy. Many asset managers also employ a diversified range of qualitative criteria/thresholds when assessing investee companies. For example, stewardship, including voting, corporate engagement and industry collaboration on sustainability issues form an integral element of many investment approaches. Stewardship outcomes can prove more difficult to quantify and to demonstrate causality.  We would also encourage ESMA to engage with other regulatory authorities to deliver a harmonised set of naming standards where possible. For example, the FCA, in their proposed Sustainability Disclosures Requirements, have set out a non-exhaustive list of ESG fund names/terms. We note the ESMA have decided against providing a similar list of terms. As such, the industry will need to determine whether a name is considered ESG-related, Sustainability-related or both. |
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<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 are supportive of a threshold where to meet the environmental or social characteristics, particularly for Article 8 products. We believe E/S characteristics should be promoted widely across the assets held by a fund and a threshold of 80% is reasonable benchmark. As noted above, any specific threshold should not front-run a clearer definition of what constitutes a sustainable investment and also the term ‘promote’ for Article 8 products

<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>

It seems unclear why the proposed guidelines look to delineate between the terms ESG and Sustainability and set separate thresholds for each. Without an exhaustive list of terms, it will prove troublesome for industry participants to determine whether a term and/or name is ESG-related or sustainability-related. We support the need for ESG/Sustainability products to invest in sustainable assets, however, many investment strategies will also focus on supporting/encouraging companies to transition to lower carbon business models. As such, any quantitative thresholds should consider how transition assets or transition-related terms can be incorporated within the guidelines. Furthermore, the European Commission’s response to the below ESA’s question will be of critical importance when determining an additional threshold of 50%.

*‘would an investment in an investee company which has one economic activity, among several other economic activities, that contributes to an environmental or social objective (and none of the economic activities significantly harm any environmental or social objective and the company follows good governance practices) be considered to be a “sustainable investment” as a whole or in part?’*

<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>

Given the current challenges and open interpretations of the SFDR, ESMA could consider a principles-based approach to support quantitative metrics and thresholds. This approach could be reviewed in time as further quantitative data becomes available under corporate disclosure requirements such as CSRD and ISSB

<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 would support guidelines mirroring the supervisory guidance in ensuring that ESG-related terms should only be used when supported in a material way by evidence of sustainability characteristics or objectives that are reflected fairly and consistently in the fund’s investment objective and policies and strategy as described in the relevant fund documentation

<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 would ask for further clarity as to why the minimum safeguards/exclusions are proposed to follow those set out for Paris Aligned Benchmarks. PABs are primarily designed to set standards for benchmarks supporting climate products and objectives. Many ESG products have wider sustainability objectives than a pure focus on climate objectives i.e social objectives. Furthermore, as noted in our response to Q3, transitioning companies have a role to play in delivering sustainability outcomes. The restrictive PAB exclusions could preclude investment in certain transitioning sectors and industries. We would propose that financial market participants should define minimum standards for their own funds as appropriate and disclose what they are in pre-contractual disclosures for Article 8 funds.

However, relating to certain exclusions, we are very supportive of PAB exclusions (a), (b) and (c)

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

Yes, as noted previously, we believe there should be provisions for transition or transition-related terms in the guidelines. However, the SFDR has not clarified as yet how transition strategies or investee companies should be considered in regards to Article 8 or 9 products

<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 support industry representative groups in their view, which is: we consider it important that other investments products, including unit-linked and structured products and potentially pension funds, should be subject to similar requirements to ensure a level playing field that consumers are not confused by different requirements

<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 think that a period of 6 months is not sufficient to implement the changes and adapt portfolios. We suggest a 12 months transition period would be more beneficial as in some EU Member states, the process of changing name could take time and become an issue as well as limits the changes to threshold as 6 months is not enough time.

<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>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_FUNA\_14>

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

<ESMA\_QUESTION\_FUNA\_15>

TYPE YOUR TEXT HERE

<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>