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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 | Atacama Partners GmbH |
| Activity | Investment Services |
| Are you representing an association? |[ ]
| Country/Region | Europe |

# Introduction

Please make your introductory comments below, if any:

<ESMA\_QUESTION\_FUNA\_0>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_FUNA\_0>

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

<ESMA\_QUESTION\_FUNA\_1>

Yes, we agree with the need to introduce quantitative thresholds to assess funds’ names. The increasing demand for ESG investment funds has led to a proliferation of funds using ESG and sustainability-related terms in their names. This can result in confusion and misleading information for investors, who may not be fully aware of the actual sustainability standards met by the fund. Introducing quantitative thresholds would provide a clear and consistent benchmark for funds to demonstrate their ESG credentials, helping to prevent greenwashing and promoting transparency in the market. Furthermore, these thresholds would help ensure that funds are making meaningful contributions to sustainability objectives and not just using ESG and sustainability terms as a marketing tool. By providing clear standards for ESG investment funds, investors can make informed decisions and allocate their assets in a way that aligns with their sustainability values and goals.

<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>

Yes.

<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, we agree to include an additional threshold for the use of the word “sustainable” or any other sustainability-related term in the name of the fund, but we propose that it should be set at a lower level, such as 20%. While a 50% minimum proportion of sustainable investments is commendable, it may limit the number of funds that can use the term “sustainable” and restrict the potential for true transition to a more sustainable economy. By lowering the threshold to 20%, a wider range of investment funds with varying levels of sustainability exposure can use the term “sustainable”, promoting a more inclusive approach to ESG investing and encouraging the integration of sustainability into all investments. This would support a wider range of sustainable investments, including those that may not fall into the dark green categories, but still make meaningful contributions to sustainability objectives. It would also promote a more gradual transition to a more sustainable economy, allowing for a wider range of investment opportunities and promoting more widespread adoption of ESG practices.

<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>

Yes, we think there are alternative ways to construct the threshold mechanism. One alternative proposal is to incorporate the concept of transition assets into the threshold mechanism. The draft Extended Environmental Taxonomy, published in March 2022, is a great example of how this could look like as it recognizes the importance of supporting the transition to a more sustainable economy by providing guidance on how to asses activities and projects that contribute to the transition of our economy. By incorporating transition assets into the threshold mechanism, investment funds that contain a significant proportion of these assets could also use sustainability-related terms in their names, recognizing their role in driving the transition to a more sustainable economy.

<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 do agree with setting thresholds that take into account the proposals we provided above.

<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, we agree with the need for minimum safeguards for investment funds with an ESG or sustainability-related term in their name. We believe that these safeguards should be based on the exclusion criteria, such as Commission Delegated Regulation (EU) 2020/1818 Article 12(1)-(2). Specifically, we agree with the provisions outlined in Article 12(2) as it pertains to the EU Taxonomy and with the letters a, b, and c under Article 12(1).

However, we believe that letters d to g under Article 12(1) in certain instances may be too restrictive and may limit the potential for investments in transition assets that are crucial in driving the transition to a more sustainable economy. In these instances, the mechanism proposed in the draft Extended Environmental Taxonomy may be more suitable as it provides a more nuanced perspective, allowing for investments in transition assets that are not yet fully in line with the EU Taxonomy but contribute to the transition to a more sustainable economy.

By taking a more nuanced approach to sustainable investing, the minimum safeguards would better align with the overall aim of promoting sustainability and supporting the transition to a more sustainable economy. This would encourage investment funds to take a holistic approach to sustainable investing, integrating both traditional green investments and transition assets into their investment strategies, and promote more widespread adoption of ESG practices.

<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>

No

<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>

Market value

<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>

No

<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, they should.

<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>

No

<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, we do not agree with having specific provisions for “impact” or impact-related names in these Guidelines if our proposals under previous questions are incorporated. This is because incorporating our proposals, which allow for a more nuanced and flexible approach to sustainable investing, would automatically reflect the need for investments in transition assets that hold the potential for large positive change towards a low carbon economy.

If our proposals are not incorporated, however, we believe that specific provisions for “impact” or impact-related funds should be included in these Guidelines that reflect the need to allow for investments in transition assets. This would ensure that investment funds have the flexibility to invest in these assets and support the transition to a more sustainable economy, while also ensuring that the funds are transparent and accurately reflect their ESG and impact investing practices in their names.

<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>

No.

<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>

TYPE YOUR TEXT HERE

<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>

No, we do not agree with having a transitional period of 6 months from the date of the application of the Guidelines for existing funds. We believe that a minimum of a 12-month transitional period would be more appropriate as this would provide investment funds with enough time to make the necessary changes without putting undue pressure on them.

A 6-month transitional period puts investment funds under pressure to sell their portfolio at a financial disadvantage for investors. This is particularly problematic for alternative investment fund managers as their investments are often illiquid and cannot be sold easily. A minimum 12-month transitional period would give investment funds more time to make the necessary changes and ensure that the changes are made in a way that is less detrimental to the financial interests of their investors.

<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, 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. This is because these funds are no longer open for distribution and therefore there is no need for them to adhere to the naming-related provisions as they are not actively being marketed or sold to investors.

<ESMA\_QUESTION\_FUNA\_14>

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

<ESMA\_QUESTION\_FUNA\_15>

The introduction of the proposed Guidelines will have an impact on investment funds and the market as a whole. If successful, it will provide greater clarity and transparency to investors on the sustainability standards of funds, helping them make informed decisions. The use of quantitative thresholds and safeguards in the use of ESG or sustainability-related terms could also prevent greenwashing and promote genuine sustainable investments. This could lead to an increase in investment in the sustainable finance sector, driving economic growth and support for a low carbon transition.

<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>

The compliance with the proposed Guidelines will bring both costs and benefits to the stakeholders we represent. On the cost side, investment funds will likely need to make changes to their investment strategies and processes in order to meet the new requirements, including the use of quantitative thresholds and safeguards. This may require additional resources, including staff time, technology and data analytics, which will increase costs and in the end potentially negatively impact investors’ returns. On the benefits side, the greater transparency and clarity provided by the Guidelines will increase investor confidence in sustainable investment funds, which will likely lead to an increase in demand for these funds. This could result in a growth in assets under management and higher returns for investors, as well as a greater contribution to the transition to a more sustainable economy. The benefits of the Guidelines may also extend beyond the investment funds to the wider economy, as more investment is channeled into sustainable finance initiatives. However, it is difficult to provide quantitative figures for these costs and benefits at this stage as the Guidelines are still in draft form and the implementation details are yet to be determined.

<ESMA\_QUESTION\_FUNA\_16>