

Public Statement

Update on the guidelines on funds' names using ESG or sustainability-related terms

Funds' names are a powerful marketing tool. In order not to mislead investors, ESMA believes that ESG- and sustainability-related terms in funds' names should be supported in a material way by evidence of sustainability characteristics or objectives that are reflected fairly and consistently in the fund's investment objectives and policy.

On 18 November 2022 ESMA launched a consultation on [Guidelines on funds' names using ESG or sustainability-related terms](#) (ESMA34-472-373). The consultation closed on 20 February 2023. ESMA received 125 responses, mainly from asset managers and their industry associations, NGOs and consumer representatives.

ESMA has considered the feedback received from stakeholders to the public consultation and agreed amendments to the Guidelines compared to the text consulted upon. These are described below.

Since this work was launched, the AIFMD and UCITS Directive reviews have progressed. ESMA has decided to postpone the adoption of the Guidelines to ensure that the outcome of these reviews may be fully considered. In particular, the text of the [provisional agreement](#) resulting from the interinstitutional negotiations contains two new mandates for ESMA to develop guidelines specifying the circumstances where the name of an AIF or UCITS is unclear, unfair, or misleading.

ESMA plans to adopt the Guidelines shortly after the date of entry into force of those amended legal texts and is publishing this statement to highlight the key content of the guidance that it intends to provide in the upcoming Guidelines.

Changes to the Guidelines from the version in the consultation paper

While the scope of the Guidelines remains unchanged, the following amendments have been introduced:

Threshold for sustainable investments

In the consultation paper, ESMA had proposed the introduction of a threshold of 50% in sustainable investments for the use of sustainability-related words in funds' names. ESMA no longer considers that this threshold should be retained.

Following the consultation, ESMA considers it more appropriate that sustainability-related terms in funds' names should be used along the following lines: the fund should (1) apply the 80% minimum proportion of investments used to meet the sustainability characteristics or objectives, (2) apply the Paris-aligned Benchmark (PAB) exclusions¹, and (3) invest meaningfully in sustainable investments defined in Article 2(17) SFDR, reflecting the expectation investors may have based on the fund's name.

Adaptation to transition

ESMA recognises that the fossil fuel exclusions in PAB contained in the consultation paper could unnecessarily penalise some funds using terms in their name that are not environmental or that focus on transition strategies. To overcome these limitations, ESMA considers that several amendments to the text proposed in the consultation paper should be made.

A new category for transition-related terms

For "transition"-related terms, ESMA suggests introducing a new category for which in addition to the 80% threshold, Climate Transition Benchmark (CTB) exclusions² should be applied. This amendment is designed to not penalise funds with those terms in their names that pursue strategies fostering a path to transition towards a greener economy.

Separation of "E" from "S" and "G" terms

Funds with social or governance terms in their names promoting social characteristics or objectives (or focusing on governance) could be too restricted in their investment universe by fossil fuel exclusions. PAB exclusions continue to be merited for funds with environmental terms in their names, as it is reasonable for investors to expect funds with environmentally related terms in their names to not significantly invest in fossil fuels.

Where terms are combined, ESMA considers that the future guidelines would apply cumulatively. In order to ensure that transition strategies are not unduly impacted, ESMA intends to specify that where environmental terms are used in combination with "transition" terms in the name of a fund, the CTB exclusions should apply. ESMA considers, however, that

¹ Exclusions for EU Paris-aligned Benchmarks are contained in Article 12(1)(a)-(g) of [Commission Delegated Regulation \(EU\) 2020/1818](#) which includes:

(a) companies involved in any activities related to controversial weapons;
(b) companies involved in the cultivation and production of tobacco;
(c) companies that benchmark administrators find in violation of the United Nations Global Compact (UNGC) principles or the Organisation for Economic Cooperation and Development (OECD) Guidelines for Multinational Enterprises;
(d) companies that derive 1 % or more of their revenues from exploration, mining, extraction, distribution or refining of hard coal and lignite;
(e) companies that derive 10 % or more of their revenues from the exploration, extraction, distribution or refining of oil fuels;
(f) companies that derive 50 % or more of their revenues from the exploration, extraction, manufacturing or distribution of gaseous fuels;
(g) companies that derive 50 % or more of their revenues from electricity generation with a GHG intensity of more than 100 g CO₂ e/kWh.

² Exclusions for EU Climate Transition Benchmarks are those contained in Article 12(1)(a)-(c) of Commission Delegated Regulation (EU) 2020/1818.

this would not apply for “sustainable” terms, as “sustainable” terms would always give an impression of sustainability irrespective of any other terms used in the name.

Impact and transition terms: measurability

Funds using “transition” or “impact”-related terms in their names should also ensure that investments under the minimum proportion of investments are made with the intention to generate positive, measurable social or environmental impact alongside a financial return or are on a clear and measurable path to social or environmental transition.

Next steps: timing of the publication and application

ESMA intends to adopt the future Guidelines (in line with the key changes highlighted above) following the outcome of the review of the AIFMD and UCITS Directive and the expected entry into force of the new mandates.

The Guidelines would apply three months after the date of their publication on ESMA’s website in all EU official languages. Managers of new funds would be expected to comply with the Guidelines in respect of those funds from the date of application of the Guidelines. Managers of funds existing before the date of application of the Guidelines should comply with the Guidelines with respect to those funds six months after the application date.