ESMA_QA_2368

Submission Date
12/12/2024

Status: Answer Published

Additional Information

Level 1 Regulation
Undertakings for Collective Investment in Transferable Securities Directive (UCITS) Directive 2009/65/EC

Level 2 Regulation
UCITS - Directive 2010/43/EU on organisational requirements, conflicts of interest, conduct of business, risk management and content of the agreement between a depositary and a management company

Level 3 Regulation
ESMA Guidelines on funds' names using ESG or sustainability-related terms (ESMA34-1592494965-657)

Topic
Funds' names

Subject Matter
Guidelines on funds' names

Question
When applying the exclusions referred to in paragraphs 16-18 of the guidelines, can fund managers consider the underlying project for use of proceeds instruments or should the manager always consider the whole issuer?

ESMA Answer

13-12-2024

Original language

With regard to European Green Bonds that have been issued under the European Green Bonds Regulation (Regulation (EU) 2023/2631), investments in such instruments do not need to be assessed under the exclusions of investments referred to in paragraphs 16-18 of the Guidelines, because the Guidelines are intended to be read in conjunction with Level 1 legislation such as the European Green Bonds Regulation and should consider the high level of protection guaranteed by the EU legal framework for such investments.

With regard to investments in any other type of use of proceeds instruments, such as green bonds not issued under the European Green Bonds Regulation, the exclusions referred to in paragraphs 16-18 of the Guidelines should apply on a look-through basis to the economic activities financed by such instruments. The look-through approach should determine that the instrument invested in does not finance any activities referred to in Article 12(1)(a-b) and (d-g) of Commission Delegated Regulation (EU) 2020/1818. Investments in companies excluded under Article 12(1)(c) of Commission Delegated Regulation (EU) 2020/1818 would not be able to benefit from this look-through approach (i.e. those companies are always excluded under the exclusions referred to in paragraphs 16-18 of the Guidelines).