



© iStock-1194898132



# Consultation Paper on ESG or sustainability-related terms in fund names

ESMA34-472-405

# Table of contents

Background and rationale

Current situation and potential future impact

From the supervisory briefing to the proposed Guidelines

Potential benefits

The proposed Guidelines

The main elements of the proposed Guidelines

Recommendations for specific type of funds

Open questions for feedback

Next steps

# Background and rationale

**Importance of fund names to investors and asset managers**

**ESG- or sustainability related terms help funds stand out**

**Growing risk of greenwashing**

# Current situation and potential future impact

**29,701\*** EU-domiciled funds screened for the use of ESG- and sustainability related words in their name

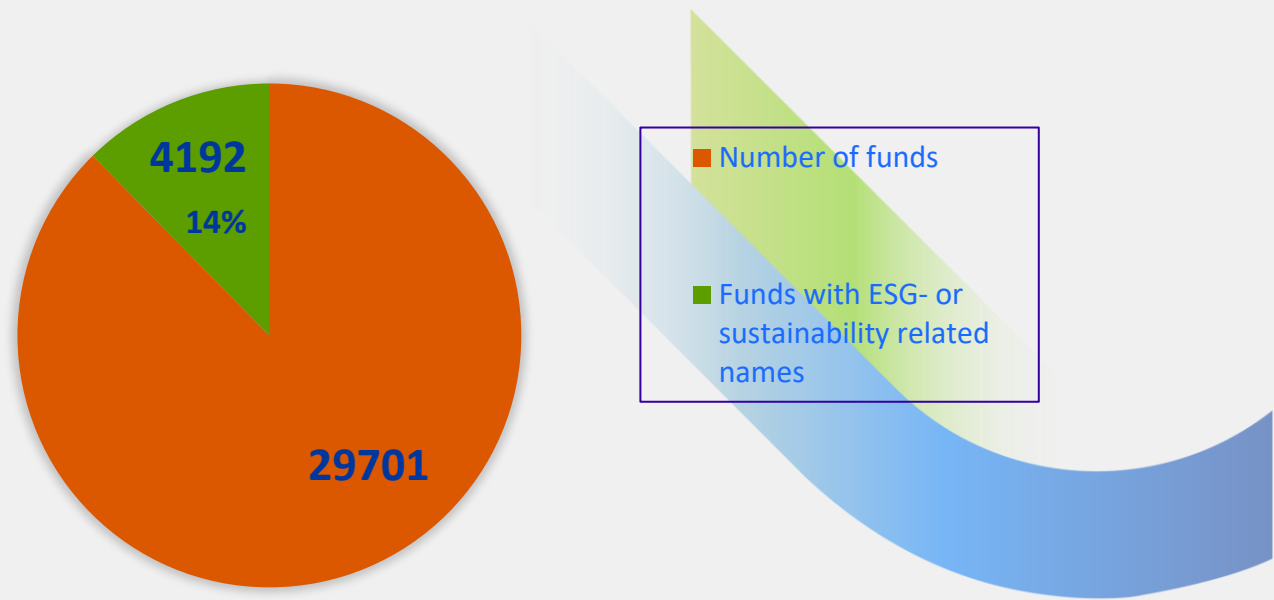
## Screening criteria for funds' names:

ESG words relating to **E** (e.g. 'climate change') or **S** (e.g. 'education') topics — **G**-related words are relatively infrequent.

ESG words and phrases including variations of the word 'sustain', such as sustainability, sustainable, etc.

# Current situation and potential future impact

An estimated **14%** of EU-domiciled funds\* (**4,192** out of 29,701) use at least one ESG- or sustainability related word in their name

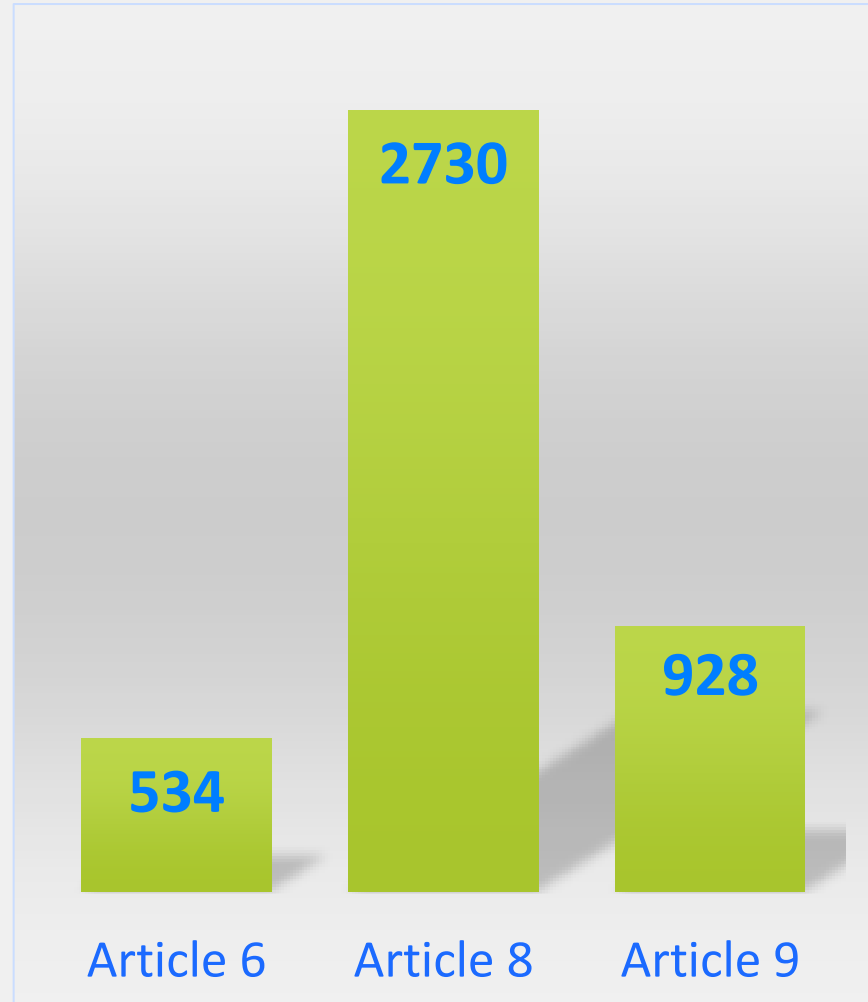


# Current situation and potential future impact

**534\*** funds disclosing under Article 6 SFDR raise potential compliance questions


**2,730\*** funds disclosing under Article 8 SFDR are potentially impacted by the proposed threshold(s)

**928\*** funds disclosing under Article 9 SFDR should be compliant with COM Q&A, hence not impacted by the proposal



# From the supervisory briefing to the proposed Guidelines

ESMA's supervisory briefing on sustainability risks and disclosures (May 2022) laid out principle-based recommendations on the use of ESG- and sustainability-related terms in funds' names.



Draft Guidelines to complement the supervisory briefing (paragraph 31) on the use of ESG- and sustainability-related terminology.

# Potential benefits

Easily understood thresholds for investors, regulators and financial market participants

Avoid risk of misrepresentation that may lead to greenwashing

Meet investors' expectations

Minimise misperception of “downgrading” of funds' disclosures (from Article 9 to Article 8 SFDR)



# The proposed Guidelines

Draft Guidelines to be issued under Article 16 ESMA Regulation

Basis: **Regulation on cross-border fund distribution** (Article 4.1 Regulation (EU)2019/1156) and **UCITS/AIFMD** organisational requirements (Article 14(1)(a) UCITS Directive and Article 12(1)(a) AIFMD)

Requirements: obligation to **act honestly and fairly** and all information included in marketing communications should be **fair, clear and not misleading**

# Main elements of the proposed Guidelines

**Minimum safeguards (exclusions) for funds using such terms**

**Threshold (80%) for the use of ESG related words**

**Additional threshold (50%) for sustainability-related term**

**Specific funds (index and impact funds) included**

**Transitional period (six months) for existing funds**

# The minimum safeguards

Minimum safeguards are based on exclusion criteria applied to all investments of the fund



Exclusion criteria for Paris-aligned Benchmarks in the Benchmark Delegated Regulation (CDR (EU) 2020/1818) Article 12(1)-(2)

# The thresholds as minimum proportion of investment

Thresholds = percentage of the minimum commitment in SFDR pre-contractual disclosure

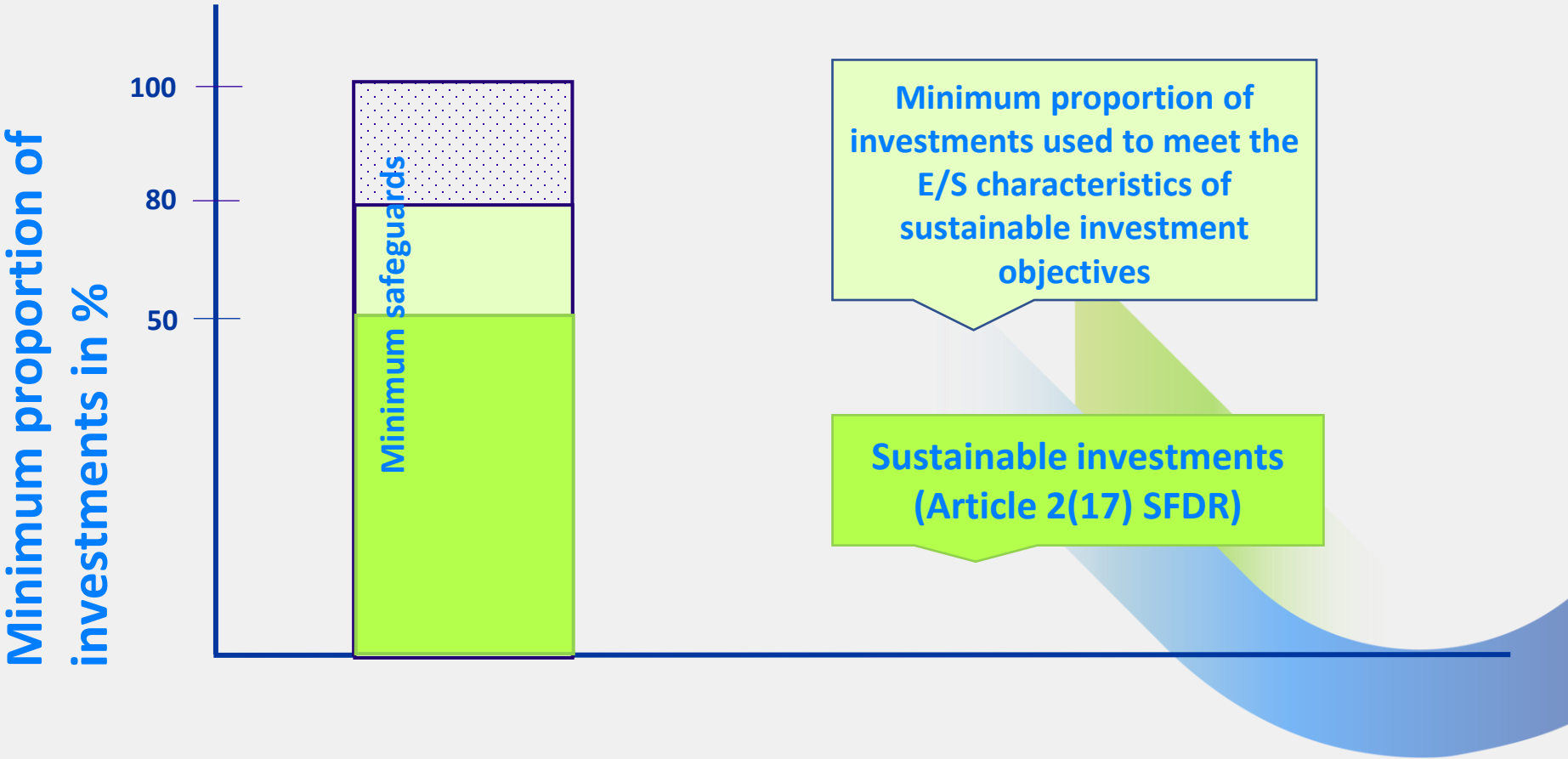
80% threshold = minimum proportion of investments used to meet the promoted E/S characteristic(s)

50% threshold = minimum proportion of investments used to attain a sustainable objective

Alignment of the name of fund to strategy and planned asset allocation

# Threshold mechanism

## Planned asset allocation

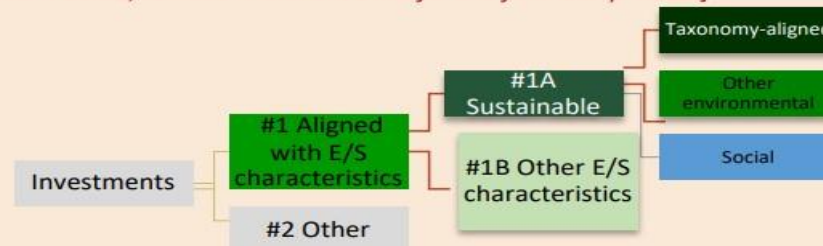


# Planned asset allocation (Article 8 SFDR)

## Annex II CDR (EU) 2022/1288

**What is the asset allocation planned for this financial product?** *[include a narrative explanation of the investments of the financial product, including the minimum proportion of the investments of the financial product used to meet the environmental or social characteristics promoted by the financial product in accordance with the binding elements of the investment strategy, including the minimum proportion of sustainable investments of the financial product where that financial products commits to making sustainable investments, and the purpose of the remaining proportion of the investments, including a description of any minimum environmental or social safeguards]*

*[Include only relevant boxes, remove irrelevant ones for the financial product]*



**#1 Aligned with E/S characteristics** includes the investments of the financial product used to attain the environmental or social characteristics promoted by the financial product.

**#2Other** includes the remaining investments of the financial product which are neither aligned with the environmental or social characteristics, nor are qualified as sustainable investments.

*[include the note below where the financial product commits to making sustainable investments]*

The category **#1 Aligned with E/S characteristics** covers:

- The sub-category **#1A Sustainable** covers sustainable investments with environmental or social objectives.
- The sub-category **#1B Other E/S characteristics** covers investments aligned with the environmental or social characteristics that do not qualify as sustainable investments.

# Planned asset allocation (Article 9 SFDR)

## Annex III CDR (EU) 2022/1288



### What is the asset allocation and the minimum share of sustainable investments? *[include a narrative explanation of the investments of the financial product including the minimum proportion of the investments of the financial product used to meet the sustainable investment objective in accordance with the binding elements of the investment strategy]*

*[include a narrative explanation of the investments of the financial product including the minimum proportion of the investments of the financial product used to meet the sustainable investment objective in accordance with the binding elements of the investment strategy]*

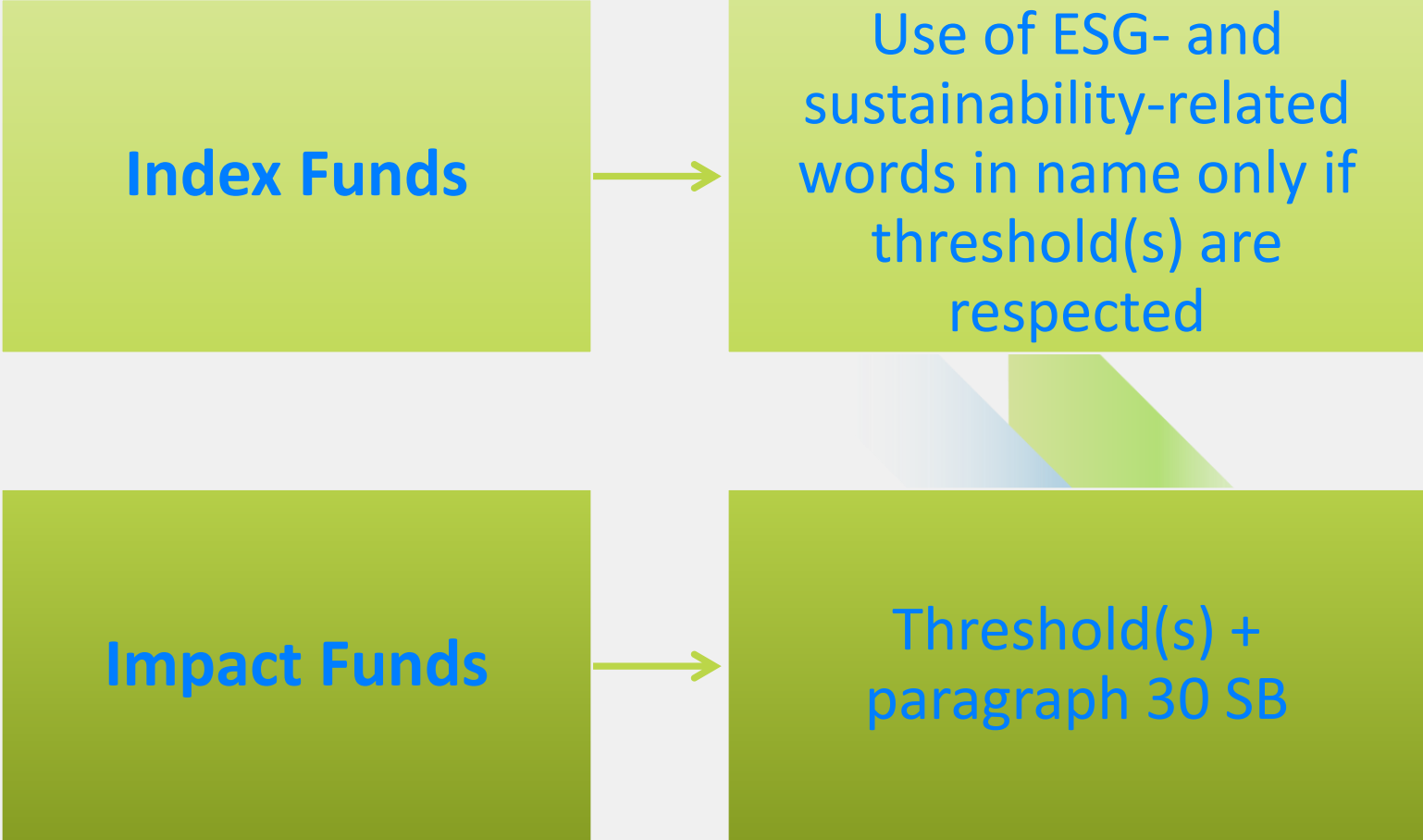
*[Include only relevant boxes, remove irrelevant ones for the financial product]*



**#1 Sustainable** covers sustainable investments with environmental or social objectives.

**#2 Not sustainable** includes investments which do not qualify as sustainable investments.

# Additional recommendations for specific types of funds





# Open questions for feedback

Treatment of derivatives

Physical or synthetical replication of an index

Specific provisions for transitional funds

Similar guidance for other financial products

## Next steps

---

The Consultation will close on 20 February 2023

---

Expected outcome by Q3 2023

---

Guidelines applicable three months after publication of translation on ESMA website

---

Proposed transition period of 6 months

A decorative graphic consisting of overlapping, semi-transparent shapes in shades of blue and green, located in the bottom right corner of the slide.

# Questions & Answers



© iStock-1263055085



[www.esma.europa.eu](http://www.esma.europa.eu)

 [@ESMAComms](https://twitter.com/ESMAComms)

 [European Securities and Markets Authority \(ESMA\)](https://www.linkedin.com/company/european-securities-and-markets-authority)