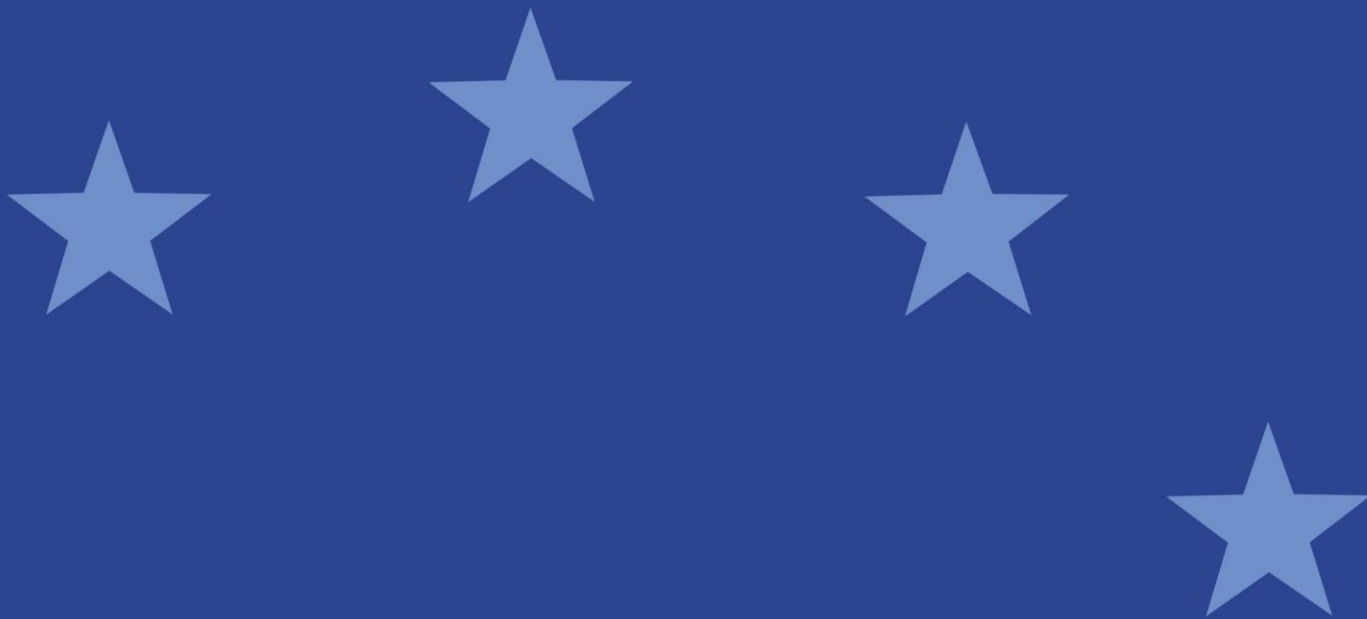


Reply form for the Consultation Paper on Guidelines for the use of ESG or sustainability-related terms in funds' names



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 `<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 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 under the headings 'Legal notice' and 'Data protection'.

General information about respondent

Name of the company / organisation	ASPIM
Activity	Investment sector
Are you representing an association?	<input checked="" type="checkbox"/>
Country/Region	France

Introduction

Please make your introductory comments below, if any:

<ESMA_QUESTION_FUNA_0>

Who is ASPIM?

The Association française des Sociétés de Placement Immobilier (ASPIM) – the French association for Real Estate investment companies – promotes, represents, and defends the interests of its members, managers of alternative investment Real Estate funds (SCPI, OPCI and other AIFs).

Created in 1975, this not-for-profit Association represents companies that manage portfolios of Real Estate assets for an asset value of €280.5 bn (2021) for the French market. Its 107 members, Portfolio Management Companies, and other unlisted Real Estate AIFs are authorised entities accredited by the Autorité des Marchés Financiers (AMF).

ASPIM strongly supports the sustainable finance agenda and shares the EU's political goal to channel investment towards the climate transition to fulfil its commitments under the Paris Agreement. We are resolutely committed to promote the integration of ESG standards into the management of Real Estate AIFs and to ensure they are involved in completing ambitious goals on social responsibility. To this end, ASPIM helped set up in 2016 a Social Charter for its members and lead an industry-wide initiative for the setting-up of a public Socially responsible investment (SRI) label dedicated to the AIFs in Real Estate which has been approved and published by the French Ministry of finance and economy on the 23rd of July 2020.

<ESMA_QUESTION_FUNA_0>

Q1 : Do you agree with the need to introduce quantitative thresholds to assess funds' names?

<ESMA_QUESTION_FUNA_1>

ASPIM considers the 2 principles proposed by ESMA, i.e. ensuring consistency between the name of a fund and its investment strategy and the need to comply with quantitative thresholds in order to be able to use ESG or sustainable terms in the name of a fund, as relevant and consistent with the objectives of the SFDR regulation.

However, ASPIM would like to draw ESMA's attention to some specific characteristics of non-listed real estate investment funds that should be considered when assessing whether the proposed quantitative thresholds are met or not.

Non-listed real estate investment funds generally have more various type of assets on their balance sheet than other type of funds, including hedging instruments, liquidities but also account receivables which can represent a significant proportion of the total asset value of the fund and be volatile over time. It is therefore very complicated, if not impossible, for a non-listed real estate investment fund to commit to 100% sustainable investments and to be classified as an article 9 product under the SFDR if only hedging instruments and liquidities are excluded. Considering this, reaching the quantitative thresholds proposed by ESMA would also be more difficult for non-listed real estate investment funds than for other type of funds if the same calculation methodology is applied.

For that reason, ASPIM recommends adapting the calculation methodology used to ensure compliance with the proposed quantitative thresholds for non-listed real estate investment funds by considering only the investments of a fund (meaning the financial and real estate assets on the balance sheet), and thus excluding not only hedging instruments and liquidities but also account receivables. This would enable non-listed real estate investment funds to use the terms ESG or sustainable in their name without having to consider an excessive margin on the proposed quantitative thresholds to mitigate the risk of compliance breach due solely to the volatility of account receivables over time.

Moreover, to ensure consistency between the different regulatory provisions, ASPIM recommends this methodology to be also used for the calculation of the various ratios required by the SFDR templates. This would thus enable some non-listed real estate investment funds to be classified as article 9 products.

<ESMA_QUESTION_FUNA_1>

Q2 : 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>

ASPIM considers the implementation of a quantitative threshold of 80% as reasonable for the use of any ESG-related words in the name of a fund, providing that for non-listed real estate investment funds, the methodology used to assess whether the threshold has been reached, considers the methodology proposed by ASPIM in its response to question #1. This would help with considering the other type of assets usually present on the balance sheet of non-listed real estate investment funds and avoid them taking excessive margins to mitigate the risk of compliance breach due solely to the volatility of account receivables over time.

<ESMA_QUESTION_FUNA_2>

Q3 : 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>

In October 2022, ASPIM and OID published a study on the adoption of the SFDR regulation by a sample of 121 public non-listed real estate investment funds distributed in France. This study, based on data available at the end of 2021, highlighted that:

- 10 funds (i.e. 8%) were classified as article 9 products under SFDR regulation, which implies a minimum proportion of sustainable investments equal to 100% (excluding hedging instruments and liquidities);
- 3 funds (i.e. 2%) were classified as article 8 products with a minimum proportion of sustainable investments between 1 and 41%.

Taking those results into account and the proposed quantitative threshold of 50% of minimum proportion of sustainable investments, ASPIM considers ESMA's proposal to be too selective and too ambitious as only products classified as article 9 products under the SFDR regulation could use the term "sustainable" in their name. Nevertheless, ASPIM is aware these figures have been established before the entry into force of the SFDR RTS on 1/1/23 and will update them this October based on the information published by non-listed real estate investment funds in their SFDR templates to have more recent and representative figures.

In the meantime, to ensure consistency with the main objective set out by the sustainable finance regulation which is to protect individual savers from the risk of greenwashing, ASPIM would recommend both keeping the proposed threshold, while including a review clause at the end of 2023 to be able to adjust it on the basis of a full year of implementation, and providing that for non-listed real estate investment funds, the methodology used to assess whether the threshold has been reached, considers the methodology proposed by ASPIM in its response to question #1. This would help with considering the other type of assets usually present on the balance sheet of non-listed real estate investment funds and avoid them taking excessive margins to mitigate the risk of compliance breach due solely to the volatility of account receivables over time.

<ESMA_QUESTION_FUNA_3>

Q4 : Do you think that there are alternative ways to construct the threshold mechanism? If yes, please explain your alternative proposal.

<ESMA_QUESTION_FUNA_4>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_FUNA_4>

Q5 : 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>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_FUNA_5>

Q6 : 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>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_FUNA_6>

Q7 : 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>

- a) **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>

- b) **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>

Q8 : 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>

Q9 : 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>
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<ESMA_QUESTION_FUNA_9>

Q10 : Do you agree of having specific provisions for "impact" or impact-related names in these Guidelines?

<ESMA_QUESTION_FUNA_10>
ASPIM considers the implementation of specific provisions for "impact" or impact-related names as relevant.

Furthermore, ASPIM considers using "impact" or impact-related words in the name of a fund should be less easily attainable than using terms such as "ESG" or "sustainable" and should be restricted to most advanced practices. Thus, ASPIM would recommend these funds to comply with either a more stringent threshold than the second threshold set for funds that use the term "sustainable" (e.g. 80% vs. 50% in the current proposal) or at least comply with the same threshold.

The definition of an additional and more stringent level of requirement for funds that use the term "impact" or impact-related words in their name could also allow more flexibility to adjust downwards the 50% threshold for funds using the term "sustainable" in their name (see answer to question #3).

<ESMA_QUESTION_FUNA_10>

Q11 : Should there be specific provisions for "transition" or transition-related names in these Guidelines? If yes, what should they be?

<ESMA_QUESTION_FUNA_11>

In the same way as for “impact” related funds names, ASPIM considers that the implementation of specific provisions for funds using the term “transition” would also be relevant.

Therefore, ASPIM would recommend that funds using terms related to “Transition” and emphasising a reduction of CO2 emissions such as “decarbonisation”, “low carbon”, “Net Zero”, etc. should at least comply with the proposed thresholds for funds that use the term “sustainable” in their name.

<ESMA_QUESTION_FUNA_11>

Q12 : 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>

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<ESMA_QUESTION_FUNA_12>

Q13 : 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>

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<ESMA_QUESTION_FUNA_13>

Q14 : 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>

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<ESMA_QUESTION_FUNA_14>

Q15 : What is the anticipated impact from the introduction of the proposed Guidelines?

<ESMA_QUESTION_FUNA_15>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_FUNA_15>

Q16 : 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>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_FUNA_16>

Q17