

## **Consultation Paper on Guidelines on funds' names using ESG or sustainability-related terms**

### **[Consultation Paper on Guidelines on funds' names using ESG or sustainability-related terms](#)**

#### **1.- Target participants**

This paper is primarily of interest to (i) alternative investment fund managers, UCITS management companies, EuSEF managers and/or EuVECA managers, alternative investment funds, EuSEFs and EuVECAs, ELTIFs and their associations as well as (ii) institutional and retail investors (and associations of such investors) investing in alternative investment funds, UCITS, EuSEFs, EuVECAs and ELTIFs.

#### **2. - Information Note**

Sustainability disclosures can give rise to the risk of “greenwashing” and this is particularly relevant if the funds are named as green or socially sustainable, when sufficient sustainability standards commensurate with that name have not been met. There are provisions in the UCITS and AIFM Directives for management companies, in relation to their business activities, to be conducted honestly and fairly. In addition, the Regulation on the cross-border distribution of funds requires the fair, clear and non-misleading nature of marketing communications. On 31 May 2022 ESMA published a supervisory briefing on sustainability risks and disclosures in the area of investment management which aimed to enhance supervisory convergence in the area of sustainability-related disclosures and the integration of sustainability risks. The supervisory briefing contained, inter alia, some principles-based guidance for funds' names with ESG and sustainability-related terms. This consultation paper aims to develop Guidelines on funds' names with ESG or sustainability-related terms with more specific guidance compared to the supervisory briefing on the use of ESG or sustainability-related terms in funds' names on which ESMA is seeking the views of external stakeholders, as further explained in the following sections.

Section 2 explains the background to the proposals. Sections 3 and 4 provide detailed information on the content of the proposals and request stakeholder input through specific questions. Annex I sets out the cost-benefit analysis related to the draft Guidelines. Annex II establishes the list of questions contained in this document. Annex III contains the full text of the draft Guidelines. Annex IV provides examples of how the threshold mechanism would work.

ESMA will consider the feedback received until Q2 2023 and expects to issue the final Guidelines by Q2/Q3 2023.

ESMA proposes to introduce thresholds that would imply that the name of a fund that uses ESG or sustainability-related terms is aligned with its characteristics and investment objectives. This alignment between the name of the fund and the characteristics or objectives of the investments is achieved by linking the disclosure of the “minimum proportion of investments” (expressed as a percentage) used to meet

the characteristics or objectives of the financial product to the threshold indicated in these Guidelines.

ESMA is seeking comments on the following proposals:

a) If a fund has ESG-related words in its name, a minimum proportion of at least 80% of its investments should be used to meet environmental or social characteristics or sustainable investment objectives in accordance with the binding elements of the investment strategy.

b) If a fund has the word "sustainable" or any other term derived from the word "sustainable" in its name, it should allocate within 80% of the investments to "meet the characteristics/objectives" under paragraph a) above at least 50% of minimum proportion of sustainable investments as defined in Article 2(17) of Regulation (EU) 2019/2088 (SFDR).

ESMA is seeking views on potential safeguards that could be necessary for the remaining investments of the funds, i.e. investments not used to meet the environmental or social characteristics or objectives of the fund. ESMA recommends minimum safeguards consisting of exclusion criteria that would apply to all fund investments for the sake of consistency and proposes the exclusion criteria applicable to Paris-aligned benchmarks in Benchmark Delegated Regulation.

The information on the minimum proportion of investments used to meet environmental or social characteristics or sustainable investment objectives in the sustainable disclosures framework does not contain any specific instructions on how derivatives may be treated. ESMA is seeking opinions on whether derivatives should have a specific calculation method in order to calculate the denomination thresholds indicated in these Guidelines.

### **3.- Submission of comments**

The deadline for submitting comments is **20 February 2023**.

Respondents may send their comments through ESMA's website: [www.esma.europa.eu](http://www.esma.europa.eu). Both the paper of this consultation and the response form are available in the section [Consultations](#) (place the cursor on the word to obtain the link).

Likewise, please send a copy of your answers to the CNMV to the following email address: [documentosinternacional@cnmv.es](mailto:documentosinternacional@cnmv.es)

**Dirección de Asuntos Internacionales**  
**CNMV**  
**c/ Edison 4**  
**28006 Madrid**