

## Cabinet News and Views

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### EU Consultation on ESG Fund Names and SFDR Q&As



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On 18 November, the European Securities and Markets Authority (“ESMA”) published a [consultation paper](#) containing draft guidelines on funds’ names using ESG or sustainability-related terms. The deadline for comments on the consultation paper is 20 February 2023. This consultation follows the consultation issued on 15 November by the joint European supervisory authorities (including ESMA) in relation to greenwashing (see our [news item](#) in the 23 November issue of *Cabinet News and Views*), and is seen as part of this initiative.

ESMA is proposing to publish guidelines (a draft of which is attached to the consultation paper) in relation to appropriate names for investment funds marketed to EEA investors (note that this does not just apply to EEA-domiciled funds) in an ESG or sustainable-investment related context. ESMA notes that investors are increasingly attracted to such strategies and wishes to ensure that investment funds that purport to have such characteristics in their name do indeed meet EU regulatory and disclosure standards relating to ESG and sustainability.

In this context, ESMA notes that the name of the investment fund is usually the first thing a potential investor sees and, notwithstanding the expectation that investors should look beyond the name and do their due diligence on the product, the name can still have a significant impact on their investment decision.

These guidelines are intended to complement ESMA’s previous, principles-based guidance on fund names with ESG and sustainability-related terms that were set out in a supervisory briefing on the sustainability risks and disclosures in the area of investment management on May 31, 2022 (ESMA34-45-1427). The draft guidelines propose quantitative thresholds and other criteria relating to particular terminology relating to ESG and sustainability, including terms derived from “ESG” and “sustainability” (e.g., “climate change” or “biodiversity”), “impact investing” or “transition.” The proposals being consulted on include questions of quantitative thresholds, such as having minimum investment percentages for particular types of

investment and whether or not benchmarks or synthetic replication should be treated in the same manner as other funds.

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Meanwhile, on 17 November, the European commission published a set of [detailed Q&As](#) in relation to the delegated regulation made under the sustainable finance disclosure regulation (“SFDR”)(EU2019/2088). This Q&A covers topics including how to calculate the current values or investments in portfolios for the purposes of principal adverse indicator (“PAI”) and taxonomy-aligned disclosures. There are also more specific Q&A in relation to PAI disclosures and taxonomy-aligned investment disclosures, as well as Q&A relating to specific financial products and multi option products.

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