

Stockholm 20 February 2023

SSMAs response to ESMA's Consultation Paper on Guidelines for the use of ESG or sustainability-related terms in funds' names

The SSMA welcomes the opportunity to respond to ESMA's Call for Evidence on the European Commissions mandate on certain aspects relating to retail investor protection.

The SSMA is a trade association representing the interests of investment firms active on the Swedish securities market. Please refer to the response from the Swedish Investment Fund Association (SW: Fondbolagens förening) for feed-back representing the Swedish fund industry.

1. General comments

The SSMA is concerned with the increasing complexity of the EU sustainability framework and is therefore generally positive to harmonized rules as regards the usage of sustainability-related terms in funds' names. Although the SSMA recognizes that there will be some implementation challenges relating to the quantitative thresholds at an initial stage, i.e. due to lack of data, we think such thresholds are likely to bring additional clarity in the longer term.

In addition, the SSMA considers that ESMA's guidelines will have the effect of increasing supervisory convergence and will therefore remove some of the legal uncertainties and un-level playing field that result from different interpretations by national competent authorities.

As regards scope, we believe that the following points could be made even more clear in the guidelines and/or feedback statement:

- The guidelines only relate to the name of the fund and not to marketing activities, which is regulated in other places.
- The guidelines cover UCITS and AIM. Tailormade products such as individual portfolios are not included.

Specific questions

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

Yes. Although the SSMA recognizes that there will be some implementation challenges relating to the quantitative thresholds at an initial stage, i.e. due to lack of data, we think such thresholds are likely to bring additional clarity in the longer term.

In addition, the SSMA considers that ESMA's guidelines will have the effect of increasing supervisory convergence and will therefore remove some of the legal uncertainties and un-level playing field that result from different interpretations by national competent authorities.

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

No. The SSMA does not agree with the reference to the Benchmark Delegated Regulation which in our view increases the complexity of the EU sustainability framework even further. In particular we are concerned with the fact that another type of minimum safeguards follows from the Taxonomy regulation and that the reference to the Benchmark Delegated Regulation has the effect of introducing the "DNSH" requirements also for article 8 funds.

Our proposal is therefore to either use the same minimum safeguards as in the Taxonomy rules or delete the reference to Article 12(2).

- Q7 : Do you think that, for the purpose of these Guidelines, derivatives should be subject to specific provisions for calculating thresholds?**
- 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?**
- b) **Are there any other measures you would recommend for derivatives for the calculation of the minimum proportion of investments?**

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.

Q9 : Would you make a distinction between physical and synthetic replication, for example in relation to the collateral held, of an index?

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

No. Although the SSMA supports increased clarity as regards "impact" we consider that this issue is broader than the question of fund names and should be dealt with in a separate consultation.

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

No. Although the SSMA supports increased clarity as regards "transition" we consider that this issue is broader than the question of fund names and should be dealt with in a separate consultation.

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?

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.

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.

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

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.