



Reclaim Finance’s response to the consultation on Guidelines on funds’ names using ESG or sustainability-related terms

Q1. Do you agree with the need to introduce quantitative thresholds to assess funds’ names?

Introducing quantitative thresholds is critically insufficient to better assess funds’ names and avoid greenwashing.

First, the very definitions of the terms ESG/sustainable/impact that these thresholds rely on are unprecise and asset managers are free to define their own definitions for their funds. Concretely, from a fund to another, the use of a same word (e.g. ‘ESG’) in the fund name would have drastically different implications depending on the definition of the sustainability objective given in the funds’ documents.

To say it differently, requiring quantitative thresholds could help ensure that a large share of the holdings is coherent with the funds’ alleged sustainability objective, but would not guarantee the quality of this objective. Such thresholds would not tell us if the asset manager’s definitions and objective make a relevant contribution to the sustainability related objective that is implied by the fund’s name. Indeed, a fund’s name sends a message to individual savers and investors.

Second, the quantitative thresholds would not ensure that the holdings comply with the “do not significantly harm” principle linked to the alleged sustainability objective of the fund.

It is therefore essential that minimum safeguards are defined for all ESG/sustainable/impact funds.

These thresholds must consider the need to ensure that the fund’s name is not misleading for investors and savers – regardless of the alleged ESG/sustainable/impact objectives defined in the fund’s document. This notably requires setting minimum criteria that ensure funds are compatible with climate goals (i.e emission reduction, ending support to activities incompatible with climate/sustainable claims...) and applying them to all holdings. These could be:

- The criteria of the Paris Aligned benchmark on emissions and fossil fuels;
- Additional criteria to ensure the funds do not contribute to the development of new fossil fuel projects (and at the bare minimum of new coal projects) or to deforestation.

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.

As explained in Q1, this criteria is critically insufficient and could have no or very little positive impact if it is not combined with a clearer definition of ‘sustainable’ investments (including minimum requirements).

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.

As explained in Q1, this criteria is critically insufficient.

Additionally, the rationale for adopting a much lower threshold for “sustainable” than general ESG/impact claims is not clear, as they are not necessarily understood differently by individual investors.

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

For Reclaim Finance, the threshold mechanism laid out in the consultation paper is flawed. As explained in Q1, it must be paired with minimum safeguards regarding GHG emissions and high impact activities. Furthermore, to ensure that sustainable/climate and any environmental-related claims are accurate a taxonomy alignment threshold could be defined.

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 or objectives? If yes, please explain your alternative proposal.

As explained in Q1 and Q4, we believe minimum and unique safeguards for all holdings are essential to achieve this supervisory aim.

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.

The minimum safeguards are necessary and important but, in ESMA’s proposal, they only apply to the non-ESG/sustainable share of the fund. This is a major problem as the definition of the ESG/sustainable/impact objective varies from one fund to another (each fund manager can use its own definition) and can leave the door open to companies that have a very negative impact on the environment, climate and/or human rights. Minimum safeguards must therefore be applied to all holdings.

Moreover, the Paris Aligned Benchmark can provide useful criteria on GHG emission reduction and fossil fuels but is not sufficient to set these minimum safeguards. The recommendations of the UN HLEG on the Net-Zero Emissions Commitments must be considered, and highlight the need for an additional exclusion of any company developing new fossil fuel production projects.

Q7. Do you think that, for the purpose of these Guidelines, derivatives should be subject to specific provisions for calculating the thresholds?

All types of assets should be taken into account. An exception can be made for derivatives but only if their use in the fund is restricted to the bare minimum and if they are used for hedging. The use of derivative financial instruments must be limited to techniques used for the efficient management of the portfolio of securities in which the fund is invested (as described in the French SRI label guidelines for example).

Q8. Do you agree that funds designating an index as a reference benchmark should also consider the same requirements for funds names like any other fund? If not, explain why and provide an alternative proposal.

We strongly agree that the requirements on fund names should also apply to funds designating an index as a reference benchmark. The minimum safeguards proposed in Q1 and Q6 should also apply.

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

The manager should always analyze the sustainability characteristics of the collaterals held.

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

The use of the word “Transition” should be submitted to the same minimum requirements as “climate”, “sustainable” or “ESG”-named funds. A company with activities that are out of line with scientific and policy consensus on what is 1.5°C compatible (for example, companies developing new coal projects) should in no way be included in ‘transition’ funds.

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.

Yes, close-ended funds should also fall under the perimeter of the Guidelines.

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

As such, and without at least operating the changes suggested in Q1, the impact of the Guidelines would be low. Fund managers could apply it by slightly modifying the ESG/sustainable/impact objective of their funds instead of changing their allocation. Investors and savers would continue to have low visibility on the real impact of the funds and “harmful” activities inside these funds would remain largely untouched. In these cases, the guidelines could even contribute to greenwashing by implicitly validating misleading claims.