



Legal Update

ESMA updates ESG Fund Name Guidance

The European Securities and Markets Authority (“ESMA”), the European Union’s financial markets regulator and supervisor, issued updated guidance on 14th December 2023 on the use of ESG or sustainability related terms in fund names. This follows an earlier consultation paper on the topic it launched in November 2022 and contains some key amendments from the proposals in that consultation.

Background

Noting that fund names are “a powerful marketing tool”, ESMA proposed guidance on the use of ESG or sustainability related terms in fund names to ensure that these did not mislead investors. It proposed that such names ought to be supported in a material way by evidence of sustainability characteristics or objectives reflected in the relevant funds’ investment objective and policy.

Consultation Process

A consultation process “*Guidelines on funds’ names using ESG or sustainability related terms*” (ESMA34-472-373) was conducted and considering feedback received during this, as well as the reviews of the UCITS and AIFMD frameworks being conducted, it has been determined to postpone the adoption of these guidelines as well as to amend certain aspects of the original proposals.

Proposed Amendments

Although the substantive nature of the guidelines remains as proposed in November 2022, some key changes have been introduced in this updated

statement from ESMA. These include the replacement of the proposed 50% threshold in sustainable investments for related terms to be used in fund names with a more elaborate requirement, including 80% minimum sustainable investments, application of the Paris-aligned Benchmark exclusions and meaningful investment in SFDR defined sustainable investments. A new category for transition-related terms is to be introduced and separate labels for the “E” and “S”, “G” respectively are to be permitted.

Next Steps and Timeline

The related guidelines, with the changes cited above, are to be adopted following the outcome of the UCITS and AIFMD reviews. They would then apply three months after the date of their publication on ESMA’s website, being immediately applicable for new funds but existing funds would have a further six-month grandfathering period.

How Clerkin Lynch can Help

The asset management team at Clerkin Lynch LLP provides timely regulatory updates and aids firms to ensure compliance with Irish and EU law.



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