

MEMO# 33069

January 27, 2021

FOR YOUR REVIEW - Answer to ESG-Related Question in ESMA Consultation on Marketing Communication Guidelines - Respond by COB 2 February

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TO: ESG Task Force

EU ESG Disclosure Regulation Working Group RE: FOR YOUR REVIEW - Answer to ESG-Related Question in ESMA Consultation on Marketing Communication Guidelines - Respond by COB 2 February

Attached for your review is a proposed answer to question 15 of the ESMA's consultation on marketing communications guidelines^[1]. (For ICI's full draft response to the entire consultation, see a separate memorandum to members^[2]). Please let us know your comments **by close of business on Tuesday 2 February 2021, to Anna Driggs at adriggs@ici.org or Linda French at linda.french@ici.org.**

Our proposed answer (see attachment) makes the following points in response to the question "if we agree with [the] approach relating to the information on the sustainability-related aspects of the investment in the promoted fund."

We agree with ESMA in that --

- Marketing communications should be based on the content of a UCITS prospectus and should not contradict the SFDR disclosure, and that
- The sustainability-related information of a marketing communication should be commensurate with the extent to which the investment strategy of the fund promotes environmental or social characteristics, or sustainable investment objectives.

However, we urge the deletion of a sentence in the proposed Guidelines that purports to suggest that if a fund primarily pursues financial performance, it should not have any sustainability aspects of the investment as the main information of a marketing communication. We argue that this sentence is inconsistent with SFDR and fundamentally incompatible with the UCITS framework for two reasons:

- First, this sentence refers to an investment strategy of a fund that “is primarily pursuing financial performance,” but all UCITS have an investment objective related to pursuit of financial performance.
- Second, the sentence calls into question whether and how SFDR Article 8 and 9 products can provide investors with marketing information, *consistent with the fund’s prospectus disclosure*, about how the fund promotes environmental or social characteristics (under SFDR Art. 8) or has a sustainable investment objective (under SFDR Art. 9).

Anna Driggs
Director and Associate Chief Counsel
ICI Global

[Attachment](#)

endnotes

[1] See ICI Memorandum No. 33058, RE: ESMA Consultation on Marketing Communication Guidelines: Member Call on 25 January at 10:00 am ET/3:00 pm GT/4:00 pm CET, dated 20 January 2021, *available at* <https://www.iciglobal.org/iciglobal/pubs/memos/ci.memo33058.global>.

[2] See ICI Memorandum No. 33068, RE: ESMA Consultation on Marketing Communication Guidelines: ICI Global Draft Response for Member Comment, dated 27 January 2021, *available at* <https://www.iciglobal.org/iciglobal/pubs/memos/ci.memo33068.global>.

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