

MEMO# 34799

January 12, 2023

Japan FSA Consults on Disclosure Requirements for ESG Investment Trusts

[34799]

January 13, 2023

TO: ESG Task Force

Global Regulated Funds Committee

Global Regulated Funds Committee - Asia SUBJECTS: ESG

International/Global RE: Japan FSA Consults on Disclosure Requirements for ESG Investment Trusts

On December 19, 2022, the Japan Financial Services Agency (JFSA) published Partial Amendments to the "Comprehensive Supervisory Guidelines for Financial Instruments Business Operators, etc." (Draft Amendments).[\[1\]](#) Comments on the Draft Amendments are due on January 27, 2023. According to the JFSA, the Draft Amendments are intended to help retail investors make informed investment decisions on publicly offered ESG investment trusts. ICI Global intends to submit a comment letter in response to the consultation.

Definition of ESG Investment Trusts and Naming

The Draft Amendments define an ESG investment trust as a publicly offered investment trust that considers ESG as a key factor in its investment decisions, and requires the ESG investment trusts to describe this approach in the delivery prospectuses and investment reports.

In contrast to Singapore and Hong Kong, where minimum investment thresholds for ESG funds are required,[\[2\]](#) the JFSA does not set similar threshold for ESG investment trusts. Instead, the ESG investment trust is required to provide a clear narrative description of its investment strategy and the manner in which its ESG investment trust status is reflected in its investment portfolio.

Investment trusts that do not fall under the category of ESG Investment Trust should not reference any ESG-related terms in the names or nicknames. Such non-ESG investment trusts are permitted to use ESG-related terms in the prospectus when relevant (for example, when an ESG factor is one of several factors in an investment decision), provided that these terms are used in a proportionate way and do not exaggerate the role of ESG factors in the investment strategy. In the case of an investment trust set up before the end of March 2023[\[3\]](#) that uses ESG-related terms in its name or nickname but does not fall under the category of an ESG Investment Trust under the new guidelines, there is no

requirement to change the name but an explanation should be made in the delivery prospectus that it is not an ESG investment trust.

Disclosures in Prospectuses and Annual Reports

Funds that fall under the definition of "ESG investment trusts" will be required to disclose the following information in the delivery prospectuses and investment reports:^[4]

- ESG factors used in the investment selection process;
- if a fund has a target impact, a description of the intended impact, the methods of measuring the impacts attained, and the extent of impact achieved;
- if a fund has a target allocation into ESG investments, the target and actual allocation;
- in cases in which the fund has a stewardship policy as part of its approach, the contents of that policy and the actions taken in accordance with the stewardship policy; and
- where a fund references an ESG index, a description of how ESG factors are incorporated in the index.

In cases where investment management is delegated to a third party, the operators of the ESG investment trusts are required to conduct appropriate due diligence and review the status of investments, in addition to the above proposed disclosures.^[5]

Due Diligence on ESG Ratings and Data Providers

Similar to the IOSCO high-level recommendation published in November 2021,^[6] the JFSA proposes to require ESG investments trusts operators to conduct due diligence on the use of third-party ESG ratings and data, including to understand the organizational resources of the ESG ratings and data providers, the quality of ESG ratings and data products, and the methodologies.

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Notes

^[1] JFSA Partial Amendments to the Comprehensive Supervisory Guidelines for Financial Instruments Business Operators, etc." is available at [Partial Amendments to the "Comprehensive Supervisory Guidelines for Financial Instruments Business Operators, etc." \(provisional English version\)](#) and [Proposed Partial Amendments to the "Comprehensive Supervisory Guidelines for Financial Instruments Business Operators, etc." \(Japanese version\)](#)

^[2] In Singapore, a fund that references ESG or similar terms in its name should invest at least two-third of its net asset value in investments that are aligned with its ESG investment strategy, while Hong Kong requires a 70% threshold for an ESG fund adopting thematic strategy. See CFC 02/2022 Disclosure and Reporting Guidelines for Retail ESG Funds, 28 July 2022, available at <https://www.mas.gov.sg/-/media/MAS/Regulations-and-Financial-Stability/Regulations-Guidance-and-Licensing/Securities-Futures-and-Fund-Management/Regulations-Guidance-and-Licensing/Circulars/CFC-02-2022-Disclosure-and-Reporting-Guidelines-for-Retail-ESG-Funds.pdf>; ICI Memorandum [34247], dated 10 August 2022, available at

<https://www.ici.org/memo34247>.

Also See Circular to management companies of SFC-authorized unit trusts and mutual funds - ESG funds, 29 June 2021, available at

<https://apps.sfc.hk/edistributionWeb/gateway/EN/circular/doc?refNo=21EC27>; ICI Memorandum [33665], dated 7 July 2021, available at <https://www.ici.org/memo33665>; and ICI Memorandum [34070], dated 10 March 2022, available at <https://www.ici.org/memo34070>.

[3] The Expert Panel on Sustainable Finance established by the JFSA recommended that the Supervisory Guidelines for ESG funds to be revised by March 2023 as part of the sustainable finance work plan. See Second Report by the Expert Panel on Sustainable Finance (Overview), Expert Panel on Sustainable Finance, FSA, July 13, 2022, available at <https://www.fsa.go.jp/news/r4/singi/20220713/04.pdf>.

[4] See "Partial Amendments to the Comprehensive Supervisory Guidelines for Financial Instruments Business Operators, etc." Supra at ii. Investment Strategy, iii. Portfolio Construction, iv. Reference Index

[5] See "Partial Amendments to the Comprehensive Supervisory Guidelines for Financial Instruments Business Operators, etc." Supra at vi. Outsourcing

[6] IOSCO published a set of high-level recommendations regarding the use of ESG ratings and data products in November 2021. Among others, users of ESG ratings and data are encouraged to conduct due diligence on the ESG ratings and data products that they use in the internal processes. See FR09/21 Final Report - Environmental, Social and Governance (ESG) Ratings and Data Products Providers, November 2021, available at <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD690.pdf>. Also See ICI Memorandum [33922], dated 24 November 2021, available at <https://www.ici.org/memo33922>.