



MIZUHO

Regulatory News

Q2 2024

Japan Fund Management (Luxembourg) S.A.

Executive Summary

Sustainable Finance	<p>14-May-24: ESMA published its Final Report on Guidelines on funds' names using ESG or sustainability-related terms. p. 3</p> <p>24-May-24: The European Council formally adopted the Corporate Sustainability Due Diligence (CSDD) directive. p. 4</p> <p>04-Jun-24: ESMA, EBA and EIOPA published their Final Reports on Greenwashing in the financial sector. p. 5</p> <p>18-Jun-24: ESAs published a Joint Opinion on the assessment of the SFDR. p. 6</p> <p>06-Jul-24: Deadline for Member States to implement the CSRD into national law. p. 7</p>
AML/CFT	<p>19-Jun-24: Following the adoption by the EU Parliament and the Council, the remaining three pillars of the AML/CFT Package (AMLA Regulation, AMLD6 and AML Regulation) were published in the EU Official Journal. p. 8</p>
AIFs and UCITS	<p>07-May-24: ESMA published a Call for Evidence on the review of the UCITS Eligible Assets Directive. p. 10</p>
Miscellaneous	<p>21-May-24: The European Council formally adopted the EU Artificial Intelligence (AI) Act. p. 11</p>

Sustainable Finance (1 of 5)

14-May-24: ESMA published its Final Report on Guidelines on funds' names using ESG or sustainability-related terms.

https://www.esma.europa.eu/sites/default/files/2024-05/ESMA34-472-440_Final_Report_Guidelines_on_funds_names.pdf

The Guidelines apply to UCITS management companies, including any UCITS which has not designated a UCITS management company, AIFMs including internally managed AIFs, EuVECA, EuSEF and ELTIF and MMFs managers as well as competent authorities. The Guidelines define the following key terms:

- **“Transition”-related terms** encompass any terms derived from the base word “transition”, e.g. “transitioning”, “transitional” etc. and those terms deriving from “improve”, “progress”, “evolution”, “transformation”, “net-zero”, etc.
- **“Environmental”-related terms** mean any words giving the investor any impression of the promotion of environmental characteristics, e.g., “green”, “environmental”, “climate”, etc. These terms may also include “ESG21” and “SRI22” abbreviations.
- **“Social”-related terms** mean any words giving the investor any impression of the promotion of social characteristics, e.g., “social”, “equality”, etc.
- **“Governance”-related terms** mean any words giving the investor any impression of a focus on governance, e.g., “governance”, “controversies”, etc.
- **“Impact”-related terms** mean any terms derived from the base word “impact”, e.g., “impacting”, “impactful”, etc.
- **“Sustainability”-related terms** mean any terms only derived from the base word “sustainable”, e.g., “sustainably”, “sustainability”, etc.

All funds using such terms should meet an 80% minimum threshold linked to the proportion of investments used to meet environmental or social characteristic or sustainable investment objectives in accordance with the binding elements of the investment strategy, as disclosed in Annexes II and III of CDR (EU) 2022/1288.

Funds using transition-, social- and governance-related terms should apply the exclusions for EU Climate Transition Benchmarks (CTB) set out in Article 12(1), points (a) to (c) of CDR (EU) 2020/1818; funds using environmental-, impact- and sustainability-related terms should apply the exclusions for EU Paris-aligned Benchmarks (PAB) set out in Article 12(1), points (a) to (g) of CDR (EU) 2020/1818.

In addition: funds using “Sustainability”-related terms should commit to investing meaningfully in sustainable investments referred to in Article 2(17) of the SFDR; funds using “Transition”-related terms should ensure that investments are on a clear and measurable path to social or environmental transition; funds using “Impact”-related terms should ensure that investments are made with the objective to generate a positive and measurable social or environmental impact alongside a financial return.

The Guidelines will apply three months after the date of the publication on the ESMA’s website in all official EU languages.

Sustainable Finance (2 of 5)

24-May-24: The European Council formally adopted the Corporate Sustainability Due Diligence (CSDD) directive.

[https://ec.europa.eu/transparency/documents-register/detail?ref=COM\(2022\)71&lang=en](https://ec.europa.eu/transparency/documents-register/detail?ref=COM(2022)71&lang=en)

The CSDD directive introduces obligations for large companies regarding adverse impacts of their activities on human rights and environmental protection. It also lays down the liabilities linked to these obligations. The rules concern not only the companies' operations, but also the activities of their subsidiaries, and those of their business partners along the companies' chain of activities.

This directive will affect companies with more than 1,000 employees and EUR 450 million turnover, and their activities ranging from the upstream production of goods or the provision of services, to the downstream distribution, transport, or storage of products. Companies in scope of this directive will have to take and implement a risk-based system to monitor, prevent or remedy human rights or environmental damages identified by the directive.

This directive establishes a **corporate due diligence duty**. The core elements of this duty are identifying and addressing potential and actual adverse human rights and environmental impacts in the company's own operations, their subsidiaries and, where related to their value chain(s), those of their business partners. If a violation of these obligations is identified, companies will have to take the appropriate measures to prevent, mitigate, bring to an end or minimise the adverse impacts arising from their own operations, those of their subsidiaries and those of their business partners in their chain of activities. Companies can be held liable for the damage caused and will have to provide full compensation.

In addition, the directive sets out an obligation for large companies to adopt and put into effect, through best efforts, a transition plan for climate change mitigation aligned with the 2050 climate neutrality objective of the Paris Agreement as well as intermediate targets under the European Climate Law.

The directive will come into force 20 days after its publication in the EU Official Journal. Member states will have two years to implement the directive. The directive will apply depending on the size of the companies following this timeline:

- 3 years from the entry into force of the directive for companies with more than 5,000 employees and EUR 1,500 million turnover;
- 4 years from the entry into force of the directive for companies with more than 3,000 employees and EUR 900 million turnover;
- 5 years from the entry into force of the directive for companies with more than 1,000 employees and EUR 450 million turnover.

Sustainable Finance (3 of 5)

04-Jun-24: ESMA, EBA and EIOPA published their Final Reports on Greenwashing in the financial sector.

https://www.esma.europa.eu/sites/default/files/2024-06/ESMA36-287652198-2699_Final_Report_on_Greenwashing.pdf

<https://www.eba.europa.eu/sites/default/files/2024-05/a12e5087-8fd2-451f-8005-6d45dc838ffd/Report%20on%20greenwashing%20monitoring%20and%20supervision.pdf>

https://www.eiopa.europa.eu/publications/eiopas-final-report-and-opinion-greenwashing-advice-european-commission_en

The purpose of the ESAs Final Reports is to deliver advice to the EC on greenwashing risks and provide a forward-looking view of how supervision could be enhanced in the future by identifying a series of actions for NCAs, ESMA and the EC to consider across key sectors of the Sustainable Investment Value Chain (SIVC).

The ESAs confirm a common high-level understanding of greenwashing as a practice whereby sustainability-related statements, declarations, actions, or communications do not clearly and fairly reflect the underlying sustainability profile of an entity, a financial product, or financial services. This practice may be misleading to consumers, investors, or other market participants. The ESAs stress again that market participants across the SIVC have a responsibility to make substantiated sustainability claims and communicate sustainability information in a manner that is fair, clear, and not misleading.

ESMA indicates the following priority actions to enable supervisors to better mitigate greenwashing risks:

- **NCAs** are invited to continue increasing human resources, capacities and expertise and adapt their organisational structure to the needs of sustainability-related supervision, as deemed appropriate. NCAs are also invited to consider investing in access to data and SupTech tools. Furthermore, NCAs are called upon to further integrate greenwashing risks into their risk-monitoring framework and to gradually deepen their critical scrutiny of sustainability-related claims.
- **ESMA** prompts supervisory action with common objectives, including CSAs in the various SIVC sectors. ESMA will continue implementing its sustainable finance training plan and knowledge hub and expand collaboration with the European Environmental Agency. ESMA will further develop indicators to monitor greenwashing risks and continue supporting the deployment of SupTech tools. ESMA will continue exploring ways to mutualise and improve the access to data relevant to sustainability-related supervision. ESMA may also produce additional guidance for market participants and supervisors in high-risk areas of greenwashing.
- The **European Council** is invited to give ESMA empowerments to provide additional guidance to market players on marketing communications and to strengthen supervisors' mandates regarding retail investors financial literacy. Misleading information should also be explicitly prohibited under the Benchmark Regulation, and benchmarks taking into account ESG factors or pursuing ESG objectives should remain under supervisors' mandate. Enabling machine-readability of sustainability disclosures and data access via the European Single Access Point should be further fostered.

Sustainable Finance (4 of 5)

18-Jun-24: ESAs published a Joint Opinion on the assessment of the SFDR.

https://www.esma.europa.eu/sites/default/files/2024-06/JC_2024_06_Joint_ESAs_Opinion_on_SFDR.pdf

Summary of the ESAs' recommendations to the European Council:

- a) The EC could consider the introduction of a product classification system, based on regulatory categories and/or sustainability indicator(s) to help consumers navigate the broad selection of sustainable products and support the full transition to sustainable finance;
- b) The categories should be simple with clear objective criteria or thresholds, to identify which category the product falls into. The ESAs encourage, at least, categories of 'sustainability' and 'transition';
- c) A sustainability indicator could refer to environmental sustainability, social sustainability or both, illustrating to investors the sustainability features of a product in a scale;
- d) Options for product categorisation and/or sustainability indicator(s) should be consumer tested and consulted on. With clear product categories and/or sustainability indicator(s), sustainability disclosures would not need to be as detailed and extensive;
- e) The EC could revisit the coexistence of the two parallel concepts of "sustainable investment" as defined in the SFDR and Taxonomy-aligned investment as defined in the EU Taxonomy. The EU Taxonomy constitutes a science-based reference point against which to measure environmental sustainability, whereas the SFDR is more principle based and less prescriptive than the EU Taxonomy when it comes to measurement of sustainable investments. The EC should prioritise completing the EU Taxonomy and extend it to social sustainability;
- f) The ESAs strongly recommend that the EC ensures that sustainability disclosures cater to different investor needs, and improvements in sustainability disclosures should take into account different distribution channels, including digital ones, and ensure consistency of information provided. The EC should prioritise only essential information for retail investors while professional investors may benefit from more detailed information;
- g) The EC could carefully reflect on whether to include other products in the SFDR scope to ensure harmonised disclosures for both products currently in the scope of SFDR and any other products that could be brought in to the scope;
- h) Information on key adverse impact indicators could be considered for all financial products, based on a cost-benefit analysis justifying the introduction of such requirement; and
- i) The EC could evaluate the introduction of a framework to assess the sustainability features of government bonds, taking into account the specificities of that asset class.

Sustainable Finance (5 of 5)

06-Jul-24: Deadline for Member States to implement the CSRD into national law.

<http://data.europa.eu/eli/dir/2022/2464/oj> & <https://www.chd.lu/fr/dossier/8370>

On 5 January 2023, the Corporate Sustainability Reporting Directive (CSRD) entered into force. Its objective is to create a common reporting framework for sustainability information by modernising and strengthening the rules concerning the social and environmental information that in-scope companies have to report.

A broad set of large companies, as well as listed SMEs, fall within the scope of the CSRD and must comply with the new sustainability reporting obligations. Some non-EU companies will also have to report if they generate over EUR 150 million on the EU market.

In addition to the European Sustainability Reporting Standards (ESRS), adopted on 31 July 2023, the CSRD aims to ensure that the relevant information included in a dedicated section of the annual management report of in-scope companies are consistent, relevant, comparable, reliable and easy to access. In-scope companies will have to apply the new rules for the first time in the 2024 financial year, for reports published in 2025.

On 29 March 2024, the Bill of Law n. 8370 was submitted to the Luxembourg Chamber of Deputies to implement the CSRD into national law. The Bill of Law is currently under review by the Luxembourg Council of State and the Chamber of Deputies and is expected to be discussed soon in a public session.

The CSRD requires Member States to implement the directive into national law by **6 July 2024**.

AML/CFT (1 of 2)

19-Jun-24: Following the adoption by the EU Parliament and the Council, the remaining three pillars of the AML/CFT Package (AMLA Regulation, AMLD6 and AML Regulation) were published in the EU Official Journal. (continue to next page)

<https://eur-lex.europa.eu/eli/reg/2024/1620/oj> & <http://data.europa.eu/eli/dir/2024/1640/oj> & <http://data.europa.eu/eli/reg/2024/1624/oj>

While the revised Transfer of Funds Regulation has already been published and will apply as from **30 December 2024** within the framework of the adoption of the Markets in Crypto Assets Regulation (the MiCA Regulation), the remaining three pillars of the AML/CFT Package have now been published in the EU Official Journal:

- **AMLA Regulation.** Regulation (EU) 2024/1620 of 31 May 2024 establishing the Authority for Anti-Money Laundering and Countering the Financing of Terrorism;
- **6th Anti-Money Laundering Directive ('AMLD6')**. Directive (EU) 2024/1640 of 31 May 2024 on the mechanisms to be put in place by Member States for the prevention of the use of the financial system for the purposes of money laundering or terrorist financing; and
- **AML Regulation.** Regulation (EU) 2024/1624 of 31 May 2024 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing.

AMLA Regulation

The AMLA Regulation will enter into force on 26 June 2024 and will apply as from **1 July 2025** (with some exceptions).

The Anti-Money Laundering and Countering the Financing of Terrorism Authority (AMLA) will be a decentralised EU agency that will coordinate national authorities to ensure the correct and consistent application of EU rules. The aim of the EU Authority will be to transform the anti-money laundering and countering the financing of terrorism (AML/CFT) supervision in the EU and enhance cooperation among financial intelligence units (FIUs). AMLA's seat will be in Frankfurt (Germany).

AMLA's key responsibilities will include:

- Directly supervising selected financial sector entities that operate on cross border basis and present high risk of money laundering and terrorism financing, as well as indirectly supervising other entities in the financial and non-financial sectors;
- Supporting and coordinating FIUs by facilitating joint cross-border cases analyses, enabling controlled information exchange, providing capabilities, advanced data analytics and managing the common FIU.net information system;
- Complementing EU AML/CFT rules by developing regulatory and implementing technical standards and issuing guidelines.

AML/CFT (2 of 2)

(continued from previous page)

AMLD6

AMLD6 must be implemented by Member States by **10 July 2027**. However, the rules concerning amendments to Directive (EU) 2015/849 (AMLD4) must be put in place by **10 July 2025** and the rules concerning beneficial ownership by **10 July 2026**. The single access point to real estate information must be implemented by 10 July 2029. AMLD4 will be repealed with effect as from 10 July 2027.

Some of the key changes in AMLD6 include:

- Enhanced requirements regarding supra-national and national risk assessments;
- New rules concerning beneficial ownership information and their recording in Central Registers;
- Enhanced cooperation and information exchange between FIUs and other competent authorities;
- Clarifications of general provisions on AML/CFT supervision;
- Clarifications on administrative measures and sanctions;
- Enhanced requirements on AML/CFT cooperation.

AML Regulation

The AML Regulation entered into force on 9 July 2024 and will apply as from **10 July 2027** (with some exceptions).

Some of the key changes in the AML Regulation include:

- Extended scope of obliged entities subject to AML/CFT obligations;
- EU-wide maximum limit of EUR 10,000 for cash payments;
- Enhanced requirements on customer due diligence;
- Enhanced obligations regarding beneficial ownership transparency;
- Enhanced requirements regarding ongoing monitoring and periodical reviews;
- Clarifications on the scope of AML/CFT internal policies, procedures and controls;
- Enhanced cooperation obligations with national competent authorities.

AIFs and UCITS

07-May-24: ESMA published a Call for Evidence on the review of the UCITS Eligible Assets Directive.

https://www.esma.europa.eu/sites/default/files/2024-05/ESMA34-1270380148-1032_Call_for_Evidence_on_the_UCITS_EAD_Review.pdf

Commission Directive 2007/16/EC of 19 March 2007 (the UCITS Eligible Assets Directive or UCITS EAD) supplements the UCITS Directive by setting down specific criteria which must be satisfied by an instrument in order to be considered eligible for investment by a UCITS.

Since the adoption of the UCITS EAD, the number and variety of financial instruments traded on financial markets has increased considerably, leading to uncertainty in determining whether some categories of assets are eligible for investment, in turn giving rise to divergent interpretations and market practices in terms of the application of the UCITS Directive.

The objective of this Call for Evidence is to gather information from stakeholders to assess possible risk and benefits of UCITS gaining exposure to various asset classes. The Call for Evidence is divided into two sections:

1. Convergence issues and clarity of key concept and definitions. ESMA asked for feedback on recurring or significant issues with the interpretation and consistent application of UCITS EAD rules with respect to, among others: financial indices; money market instruments; financial instruments backed by, or linked to the performance of assets other than those listed in Article 50(1) of the UCITS Directive; the notions of “liquidity” and “liquid financial assets”; the presumption of liquidity and negotiability for certain instruments; the notion of ancillary liquid assets; the “transferable security” criteria; the valuation and risk management-related criteria; the concept of “embedded” derivatives; the notion of EPM techniques and the notion of securities financing transactions.

2. Direct and indirect UCITS exposures to certain asset classes and related data collection/analysis. ESMA asked for feedback on the merits of allowing direct or indirect UCITS exposures to asset classes such as loans, Cat bonds, CoCo bonds, unrated bonds, distressed securities, unlisted equities, crypto assets, commodities and precious metals, ETCs, real estate, REITs, SPACs, EU and non-EU AIFs, emission allowances, delta-one instruments, ETNs, ABS including MBS. ESMA also asked for feedback on whether a look-through approach should be required to determine the eligibility of assets.

Stakeholders are invited to provide feedback by **7 August 2024**. Responses received by ESMA to this Call for Evidence will inform its technical advices to the EC on possible reforms to the UCITS Eligible Assets Directive.

Miscellaneous

21-May-24: The European Council formally adopted the EU Artificial Intelligence (AI) Act.

<https://artificialintelligenceact.eu/>

The AI Act classifies AI systems according to their risk:

- Unacceptable risk AI systems are prohibited (e.g. social scoring systems and manipulative AI).
- High risk AI systems are subject to stringent requirements: this category entails obligations for the AI systems themselves, their providers (developers), importers, distributors, and deployers.
- Limited risk AI systems are subject to transparency obligations: developers and deployers must ensure that end-users are aware that they are interacting with AI (chatbots and deepfakes).
- Minimal risk AI systems (e.g. AI enabled video games and spam filters) are unregulated.

The AI Act defines general purpose AI (GPAI) models:

- GPAI models are AI models capable of performing a wide range of tasks and integrating into various applications or systems.
- All GPAI model providers must provide technical documentation, instructions for use, comply with the Copyright Directive, and publish a summary about the content used for training.
- Free and open licence GPAI model providers only need to comply with copyright and publish the training data summary, unless they present a systemic risk.
- All providers of GPAI models that present a systemic risk – open or closed – must also conduct model evaluations, adversarial testing, track and report serious incidents and ensure cybersecurity protections.

The AI Act establishes new governance bodies at European level:

- The AI Act establishes: (i) an AI Office within the EC to enforce the AI Act; (ii) the European Artificial Intelligence Board, comprising one representative from each Member State, to advise and assist the EC and Member States in implementing the AI Act, offering advice, recommendations, and opinions on relevant matters; (iii) an Advisory Forum, to provide technical expertise and advice to the Board and the EC; and (iv) a scientific panel of independent experts to support enforcement activities upon the request of Member States.
- In addition, each Member State shall establish or designate as national competent authorities at least one notifying authority and one market surveillance authority.

The AI Act will come into force 20 days after its publication in the EU Official Journal.

Contacts



Takeshi Komatsuzaki

Conducting Officer, Director

t. +352 276 920 670



Thierry Grosjean

Conducting Officer

t. +352 276 920 240



Thibault Martin

Conducting Officer

t. +352 276 920 242

Disclaimer

Japan Fund Management (Luxembourg) S.A. (“JFML”) is an Alternative Investment Fund Manager authorised under the Luxembourg Law of 12 July 2013, as amended. JFML is authorised and supervised by the Commission de Surveillance du Secteur Financier, and is part of the Mizuho Financial Group.

This publication has been prepared by JFML solely from publicly available information. Information contained herein and the data underlying it have been obtained from, or based upon, sources believed to be reliable, but no assurance can be given that the information, data or any computations based thereon are accurate or complete. The content of this publication is subject to change without notice. JFML does not accept any obligation to any recipient to update or correct this publication.

This publication provides general background information only, and does not contain any views or opinions. It contains information in summary form and does not purport to be complete. It has been prepared for information purposes only, and is not intended to constitute investment, legal, accounting, tax or other advice of any kind. It is not intended to be relied upon as advice to investors or potential investors. JFML does not accept any liability whatsoever with respect to the use of this report or its contents.

This publication is not intended to market any financial instrument, product or service or serve as a recommendation to take or refrain from taking any particular course of action or participate in any trading or other strategy. It is not an offer to buy or sell or a solicitation of any offer to buy or sell any security or any other financial instrument, nor is it an offer to participate in any trading or other strategy, nor a disclosure document under applicable laws, rules, regulations or guidelines. Nothing contained herein is in any way intended to offer, solicit and/or market any financial instrument, product or service, or to act as any inducement to enter into any contract or commitment whatsoever.