



**AFSA**

Astana  
Financial  
Services  
Authority

# Consultation Paper

AFSA-P-CE-2023-0008

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## **Proposed Amendments to the AIFC Collective Investment Scheme Rules on Environmental, Social and Governance (ESG) FUNDS**

Unrestricted

2 November 2023

## Introduction

### *Why are we issuing this Consultation Paper (CP)?*

1. The Astana Financial Services Authority (AFSA) has issued this Consultation Paper to seek suggestions from the market on the proposed amendments to the AIFC Collective Investment Scheme Rules on ESG Funds.

### *Who should read this CP?*

2. The proposals in this paper will be of interest to current and potential AIFC participants who are interested in asset and fund management activities in or from the AIFC.

### *Terminology*

3. Defined terms have the initial letter of the word capitalised, or of each word in a phrase. Definitions are set out in the AIFC Glossary ([GLO](#)). Unless the context otherwise requires, where capitalisation of the initial letter is not used, the expression has its natural meaning.

### *What are the next steps?*

4. We invite comments from interested stakeholders on the proposed framework. All comments should be in writing and sent to the address or email specified below. If sending your comments by email, please use “Consultation Paper AFSA-P-CE-2023-0008” in the subject line. You may, if relevant, identify the organisation you represent when providing your comments. The AFSA reserves the right to publish, including on its website, any comments you provide, unless you expressly request otherwise. Comments supported by reasoning and evidence will be given more weight by the AFSA.
5. The deadline for providing comments on the proposed framework is 2 December 2023. Once we receive your comments, we shall consider if any refinements are required to this proposal.
6. AFSA prefers to receive comments by email at [consultation@afsa.kz](mailto:consultation@afsa.kz) or posted to:  
Policy and Strategy Division  
Astana Financial Services Authority (AFSA)  
55/17 Mangilik EI, building C3.2, Astana, Kazakhstan

### *Structure of this CP*

- Part I – Background;
- Part II – Best Practice;
- Part III – Proposals;
- Part IV – Public Consultation Questions;
- Annex 1 – Draft Amendments to AIFC Collective Investment Scheme Rules (CIS);
- Annex 2 – Draft Amendments to AIFC Glossary (GLO);

## Background

1. The Astana Financial Services Authority ("AFSA") intends to enhance the Collective Investment Scheme ("CIS") legal framework to reflect our prioritisation of a shift towards a more responsible and forward-thinking approach to investing and finance.
2. As environmental, social and governance ("ESG") related investment products continue to gain attraction globally, regulatory bodies in various jurisdictions are placing greater emphasis on ESG reporting and disclosure. This has prompted companies and investors to integrate ESG factors into their decision-making processes to ensure compliance and transparency.
3. According to a recent report, despite the lower global net inflows and challenging investment climate, global sustainable fund assets hit nearly \$2.8 trillion at the end of June 2023<sup>1</sup>.
4. The growing market interest in ESG funds indicates a more extensive transition towards responsible and sustainable investing, which is also backed up by interest of several AIFC Participants to establish such type of funds. As such, the AFSA intends to issue these proposals as part of a broader initiative to enhance the ESG related frameworks at the AIFC.
5. Obtaining a status of an ESG fund holds significant importance since it enables investors to support companies that prioritise sustainability and responsible practices, but also offers potential financial benefits and risk mitigation.
6. It is important to note that sustainable finance is one of the strategic priorities for the Astana International financial Centre ("AIFC") given the following:
  - The AIFC declared its commitment to the principles of sustainable financing, which contribute to strengthening and actively encouraging stakeholders to harmonize their activities with the priorities of sustainable development of Kazakhstan<sup>2</sup>.
  - To improve the investment ecosystem in 2022, the government has adopted a new Concept of Investment Policy of the Republic of Kazakhstan until 2026<sup>3</sup>, which provides for a set of measures aimed at increasing investment in the manufacturing industry, production of high value-added goods, as well as stimulating investment in sustainable development projects in the context of increasing ESG standards, and global energy and technological transitions. The AIFC actively participates in the implementation of the policy to achieve Kazakhstan's investment priorities.
  - According to the President Kassym-Jomart Tokayev's State of the Nation Address "Economic course of a Just Kazakhstan" the adoption of ESG principles has become standard practice in the financial sector. To align with this trend, the AIFC must become the primary platform for attracting "green" funding in the region.
7. Including ESG funds in the AFSA's regulatory perimeter would contribute to significant reduction of greenwashing risks, by ensuring that funds adhere to genuine ESG criteria and accurately represent their sustainability efforts.

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<sup>1</sup> Morningstar's Global Sustainable Fund Flows report, October 2023.

<sup>2</sup> AIFC's Statement of Commitment to Sustainable Finance Principles.

<sup>3</sup> Order of the Government of the Republic of Kazakhstan dated July 15, 2022, No. 482.

## Best Practice

8. The AFSA has considered the international standard setting, particularly the International Organization of Securities Commissions (IOSCO), and have considered the numerous jurisdictions' regulatory approaches in relation to ESG Funds.
9. In November 2022 IOSCO issued a Call for Action to “counter the risk of greenwashing related to asset managers and ESG rating and data providers<sup>4</sup>.” According to IOSCO's recommendations the following actions should be taken to improve ESG guidance and disclosures and prevent greenwashing:
- Establish policies, procedures, and practices covering the classification of material risks and opportunities;
  - Include product-level disclosures that provide transparency of material sustainability-related risks and opportunities;
  - Standardize sustainable finance and ESG-related terms to provide consistency across the global asset management industry;
  - Promote related investor education;
  - Set clear expectations for due diligence of ESG ratings and data products used in internal processes.
10. The regulatory approaches of the following jurisdictions were considered by the AFSA:

### *European Union (The European Securities and Markets Authority “ESMA”)*

11. Sustainable Finance Disclosure Regulation (SFDR) is a cornerstone of the EU's sustainable finance agenda. It requires financial market participants, including fund managers, to disclose information about the sustainability of their investments. This regulation aims to improve transparency and prevent greenwashing. Under the SFDR, funds that promote environmental or social characteristics (so-called light green funds) are categorized as Article Eight funds, while funds that have sustainable investment as their objective are categorized as Article Nine funds.
12. The main requirements to ESG funds are indicated in the Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability-related disclosures in the financial services sector and the Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088.
13. The 2021 released the EU Sustainable Finance Strategy aims to support the financing of the transition to a sustainable economy by proposing action in four number of areas: transition finance, inclusiveness, resilience and contribution of the financial system and global ambition.

### *United Kingdom (The Financial Conduct Authority “FCA”)*

14. According to FCA's strategy for 2023 the finalised Sustainable Disclosure Requirements will be available by the end of 2023. The proposals aim to cover the following main areas:

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<sup>4</sup> <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD717.pdf>

- Sustainable investment labels to help consumers navigate the investment product landscape and enhance consumer trust;
- Consumer-facing disclosures to help consumers understand the key sustainability-related features of a product;
- Detailed disclosures targeted at a wider audience;
- Naming and marketing rules;
- Requirements for distributors;
- A general 'anti-greenwashing' rule applied to all regulated firms which reiterates existing rules to clarify that sustainability-related claims must be clear, fair and not misleading.

*Singapore (Monetary Authority of Singapore)*

15. Published in July 2022 the Circular on Disclosure and Reporting Guidelines for Retail ESG Funds sets out Monetary Authority of Singapore' expectations on how existing requirements under the Code on Collective Investment Schemes and the Securities and Futures Regulations apply to retail ESG funds, and the disclosure and reporting guidelines applicable to these funds. Items covered in the guidelines include governance and strategy, research and portfolio construction, portfolio risk management, stewardship, and disclosure of environmental risk information.
16. ESG Fund is defined as a fund which uses or includes ESG factors as its key investment focus and strategy, and represents itself as an ESG-focused scheme. In Singapore, at least two-thirds of the fund's net asset value should be invested in green or sustainable companies.

*Hong Kong (Securities and Futures Commission "SFC")*

17. In April 2019, the SFC issued the Circular to management companies of SFC-authorized unit trusts and mutual funds – Green or ESG funds ("2019 Circular")
18. In view of local and international market and regulatory developments, in June 2021 the SFC revised the 2019 Circular to provide further guidance on enhanced disclosure including periodic assessment and reporting for ESG funds and with additional guidance for funds with climate-related focus. This circular applies to SFC-authorized funds which incorporate ESG factors as their key investment focus and reflect such in the investment objective and/or strategy. To be qualified as an ESG fund in Hong Kong, the fund should invest at least 70% of its net asset value in the companies that satisfy green or sustainable requirements.

*Abu-Dhabi Global Market ("ADGM")*

19. In July 2023 ADGM has implemented its sustainable finance regulatory framework, comprising the comprehensive ESG disclosure requirements and a regulatory framework for funds, discretionary managed portfolios, bonds and sukuk designed to accelerate the transition of the UAE to net zero greenhouse gas emissions.
20. According to the ADGM Funds Rules Green Fund must be a Domestic Fund that meets the Green Fund Investment Requirement and the Green Fund Attestation Requirement.

*Dubai International Financial Centre ("DIFC")*

21. The DIFC regulatory framework does not provide any special provisions regarding ESG funds, however establishment of green Funds is indicated as one of the milestones in their Sustainable Finance Roadmap 2021-2024.

22. In September 2023 DIFC published its Sustainable Finance Framework with a positive Second Party Opinion review by S&P Global Ratings, which sets out fundraising principles for investments in its environmental and social projects that enable sustainable business operations.

## Proposals

23. In light of the emerging need to align with the principles of sustainable financing it is proposed to introduce the amendments the AIFC Collective Scheme Framework and the AIFC Glossary to include ESG Funds as a separate type of Specialist Funds.

24. The following provisions are proposed to be included in:

- Definition;
- General investment powers and limits;
- Content requirements for Offering Materials;
- Enhanced reporting requirements.

## Public consultation questions

In the course of public consultation, existing and potential market participants will be invited to comment on the following questions:

- (1) Do you agree with the proposed amendments to AIFC Collective Investment Scheme Rules? If not, what are your concerns, and how should they be addressed?
- (2) Do you agree with the definition of an ESG Fund proposed to be introduced in the AIFC Glossary? If not, what are your concerns, and how should they be addressed?

**Proposed amendments to the AIFC Collective Investment Scheme Rules**  
**In these Rules, the underlining indicates a new text and the strikethrough indicates a removed text**

(...)

**2.4-1. Other Specialist Funds**

(...)

(e) An ESG Fund, is a Fund where:

- (i) its main investment focus incorporates ESG factors; and
- (ii) at least 70 % of net asset value of the Fund Property is invested in accordance with the investment strategy.

(...)

**5.3. Content requirements for Offering Materials**

(...)

(m) Information relating to an ESG Fund:

- (i) a description of the investment objective, policy and strategy incorporating an ESG Fund's investment focus;
- (ii) a Fund Manager of an ESG Fund must ensure that Offering Materials do not refer to an "ESG Fund", or otherwise includes or uses ESG-related or similar terms, unless the Fund meets the criteria in 2.4-1(e);
- (iii) a list of ESG criteria used to measure the attainment of the Fund's ESG focus;
- (iv) a description of the sustainable investment strategy used by the Fund to achieve its ESG focus, the binding elements of that strategy in the investment process, and how the strategy is implemented in the investment process on a continuous basis;
- (v) where the Fund uses a benchmark index to measure the attainment of its ESG focus, an explanation of how the benchmark index is consistent with or relevant to its investment focus;
- (vi) where the Fund uses a benchmark index for financial performance measurement only, a statement of that fact; and
- (vii) risks associated with the Fund's investment focus and strategy;

(viii) any ESG-related terms used must be clearly defined.

(...)

#### **10.5-1. Fund Manager's report**

The matters set out in (a) to ~~(h)~~ must be included in any Fund Manager's report:

(...)

(i) for a report on an ESG Fund, the information containing:

- (i) how the Fund's investment focus has been met during the financial year, including a comparison with the previous year (if any); and
- (ii) the actual proportion of investments that meet the Fund's investment focus (if applicable); and
- (iii) any action taken by the Fund in attaining the Fund's ESG focus.

(...)



**Proposed amendments to the AIFC Glossary**

In these Rules, the underlining indicates a new text and the strikethrough indicates a removed text

**2. INTERPRETATION**

<b><u>ESG</u></b> <b><u>(Environmental,</u></b> <b><u>Social and</u></b> <b><u>Governance) Fund</u></b>	A Fund which integrates <u>ESG criteria into its investment strategy and decision-making process.</u>
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