

Response Form to the Consultation Paper

Draft Guidelines on Enforcement of Sustainability Information (GLESI)

Responding to this paper

ESMA invites comments on all matters in *Consultation Paper – Draft Guidelines on Enforcement of Sustainability Information* (ESMA32-992851010-1016) and in particular on the specific questions summarised in Annex III of the Consultation Paper and included in this response form. Comments are most helpful if they:

- respond to the question stated;
- contain a clear rationale; and
- describe any alternatives ESMA should consider.

ESMA will consider all comments received by 15 March 2024.

All contributions should be submitted online at www.esma.europa.eu under the heading “Open consultations” → “Consultation on draft Guidelines on Enforcement of Sustainability Information”.

Instructions

In order to facilitate analysis of responses to the Consultation Paper, respondents are requested to follow the below steps when preparing and submitting their response:

1. Insert your responses to the questions in the Consultation Paper in the present response form.
2. Please do not remove tags of the type <ESMA_QUESTION_GLESI_1>. Your response to each question has to be framed by the two tags corresponding to the question.
3. If you do not wish to respond to a given question, please do not delete it but simply leave the text “TYPE YOUR TEXT HERE” between the tags.
4. When you have drafted your response, name your response form according to the following convention: ESMA_GLESI_nameofrespondent_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESMA_GLESI_ABCD_RESPONSEFORM.
5. Upload the form containing your responses, **in Word format**, to ESMA’s website (www.esma.europa.eu under the heading “Open consultations” → “Consultation on draft Guidelines on Enforcement of Sustainability Information”).

Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly and prominently indicate in your submission any part you do not wish to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESMA's rules on access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESMA's Board of Appeal and the European Ombudsman.

Data protection

Information on data protection can be found at www.esma.europa.eu under the heading '[Data protection](#)'.

Who should read this paper?

This consultation paper will be of interest to listed undertakings required to publish sustainability information by the Corporate Sustainability Reporting Directive and Article 8 of the Taxonomy Regulation, to investors and other users of sustainability information and to auditors and independent assurance services providers.

General information about respondent

Name of the company / organisation	Eumedion
Activity	Other Financial service providers
Are you representing an association?	<input checked="" type="checkbox"/>
Country / region	Netherlands

Questions

Q1 Do you have comments on the proposed scope of the GLESI? If yes, please explain your views and provide alternative suggestions where needed.

<ESMA_QUESTION_GLESI_1>

We agree. Please consider our response to question 23 as the implicit starting point of all of the questions in this survey.

<ESMA_QUESTION_GLESI_1>

Q2 Should any further legislative references be added to section 2.1 of the GLESI? If yes, please explain which ones and why.

<ESMA_QUESTION_GLESI_2>

We are not aware of any other references that need to be incorporated.

<ESMA_QUESTION_GLESI_2>

Q3 Should any other abbreviations be added to section 2.2 of the GLESI? If yes, please explain which ones and why.

<ESMA_QUESTION_GLESI_3>

We agree with the other abbreviations in section 2.2

<ESMA_QUESTION_GLESI_3>

Q4 Do you agree with the definitions ESMA proposes for inclusion in section 2.3 of the GLESI? Has ESMA covered all the concepts that need to be defined? If not, please explain your concerns and propose how to address them.

<ESMA_QUESTION_GLESI_4>

We agree.

<ESMA_QUESTION_GLESI_4>

Q5 Do you agree with the proposed purpose of the GLESI? If not, please explain why and make a proposal for what should change.

<ESMA_QUESTION_GLESI_5>

We agree.

<ESMA_QUESTION_GLESI_5>

Q6 Do you have any remarks on the compliance and reporting obligations?

<ESMA_QUESTION_GLESI_6>

We have no remarks.

<ESMA_QUESTION_GLESI_6>

Q7 Do you agree with the proposed objective of the enforcement of sustainability information? If not, please explain why and provide suggestions for amendments.

<ESMA_QUESTION_GLESI_7>

We agree.

<ESMA_QUESTION_GLESI_7>

Q8 Do you agree with the draft Guideline 2 on how enforcers should ensure that they have an effective process for enforcing sustainability information? If not, please explain why and provide suggestions for amendments.

<ESMA_QUESTION_GLESI_8>

We agree.

<ESMA_QUESTION_GLESI_8>

Q9 Do you agree with the draft Guideline 3 on enforcement of sustainability information prepared under equivalent third country sustainability reporting requirements? If not, please explain why and provide suggestions for amendments.

<ESMA_QUESTION_GLESI_9>

We agree.

<ESMA_QUESTION_GLESI_9>

Q10 Do you agree with the draft Guideline 4 on the independence of enforcers? If not, please explain why and provide suggestions for amendments.

<ESMA_QUESTION_GLESI_10>

We agree.

<ESMA_QUESTION_GLESI_10>

Q11 Do you agree with the draft Guideline 5 on the mixed selection model? If not, please explain why and provide suggestions for amendments.

<ESMA_QUESTION_GLESI_11>

We agree.

<ESMA_QUESTION_GLESI_11>

Q12 Do you agree with the draft Guideline 6 on the timing of the selection model? If not, please explain why and provide suggestions for amendments.

<ESMA_QUESTION_GLESI_12>

We agree.

<ESMA_QUESTION_GLESI_12>

Q13 Do you agree with the proposed Guideline 7 on the selection universe? If not, please explain why and provide suggestions for amendments.

<ESMA_QUESTION_GLESI_13>

We agree.

<ESMA_QUESTION_GLESI_13>

Q14 Do you agree with the draft Guideline 8 on the four types of examination enforcers can use when they examine sustainability information? If not, please explain why and provide suggestions for amendments.

<ESMA_QUESTION_GLESI_14>

We agree.

<ESMA_QUESTION_GLESI_14>

Q15 Do you agree with the draft Guideline 9 which addresses the enforcer's examination process? If not, please explain why and provide suggestions for amendments.

<ESMA_QUESTION_GLESI_15>

We agree.

<ESMA_QUESTION_GLESI_15>

Q16 Do you agree with the draft Guideline 10 which presents the conditions which enforcers should apply when they offer their issuers pre-clearance of

sustainability information? If not, please explain why and provide suggestions for amendments.

<ESMA_QUESTION_GLESI_16>

We agree.

<ESMA_QUESTION_GLESI_16>

Q17 Do you agree with the draft Guideline 11 which requires enforcers to undertake quality reviews of their enforcement processes? If not, please explain why and provide suggestions for amendments.

<ESMA_QUESTION_GLESI_17>

We agree.

<ESMA_QUESTION_GLESI_17>

Q18 Do you agree with the draft Guideline 12 which presents the considerations enforcers should apply when they identify an infringement in the sustainability information and have to determine which enforcement action to use? If not, please explain why and provide suggestions for amendments.

<ESMA_QUESTION_GLESI_18>

We agree.

<ESMA_QUESTION_GLESI_18>

Q19 Do you agree with the draft Guideline 13 which clarifies the approach to materiality in the enforcement of sustainability information? If not, please explain why and provide suggestions for amendments.

<ESMA_QUESTION_GLESI_19>

We agree.

<ESMA_QUESTION_GLESI_19>

Q20 Do you agree with the draft Guideline 14 which establishes that enforcers should check whether issuers took appropriate action when they were subject to an enforcement action? If not, please explain why and provide suggestions for amendments.

<ESMA_QUESTION_GLESI_20>

We agree.

<ESMA_QUESTION_GLESI_20>

Q21 Do you agree with the proposed requirements for how to coordinate enforcement of sustainability information at a European level in draft Guidelines 15, 16, 17, 18, 19 and 20? If not, please explain why and provide suggestions for amendments.

<ESMA_QUESTION_GLESI_21>

We agree. It is of great importance that the ESRs are applied in the same manner by corporates. Therefore, the ESRs need to be interpreted and enforced in a uniform manner by the National Competent Authorities across the entire EU. The critical role of ESMA in coordinating uniform enforcement across the EU cannot be underestimated.

<ESMA_QUESTION_GLESI_21>

Q22 Do you agree that it is useful to publish extracts of decisions taken by enforcers, as required by draft Guideline 21, and to report on enforcement activities at national and European level, as required by draft Guideline 22? If not, please explain why and provide suggestions for amendments.

<ESMA_QUESTION_GLESI_22>

We agree.

<ESMA_QUESTION_GLESI_22>

Q23 Do you agree that the proposed policy option 1 is preferable from a cost-benefit perspective? If not, please explain. If yes, have you identified other benefits and costs which are not mentioned above?

<ESMA_QUESTION_GLESI_23>

We concur that Option 1 is preferable from a cost-benefit perspective, yet our favour for this option is not solely based on this lens. Investors' decisions to invest, vote, and engage depend as much on sustainability information as they do on financial information. Therefore, we support a high degree of quality of the enforcement mechanisms for both financial and sustainability information. We see the proposed high level of consistency between the GLEFI and the proposed GLESI as contributing to the quality, effectiveness, and indeed also the cost effectiveness of enforcement in sustainability reporting. We commend ESMA for setting both guidelines on equal footing.

We do caution that the enforcement of sustainability information might prove to be more costly than the enforcement of financial information. This may be primarily due to the unique challenges and the nascent nature of sustainability reporting. ESMA anticipates that the costs to enforcers under Option 1 will remain within a reasonably low range, as these practices are already being applied in the enforcement of financial information, thereby limiting incremental costs arising from new reporting requirements. Conversely, Option 2 might lead to moderate costs due to the need for establishing new enforcement practices, training staff, and managing different practices for sustainability and financial information, particularly for enforcers with integrated enforcement teams.

We see a risk in overemphasis of the cost-benefit perspective, as the potentially higher costs of sustainability enforcement could be misinterpreted as a justification for less stringent enforcement. It is crucial to maintain a balanced approach that recognizes the importance of robust enforcement in both financial and sustainability reporting, ensuring investor confidence and market integrity.

<ESMA_QUESTION_GLESI_23>

Q24 If you advocate for a different policy option, how would it impact the benefits and costs? Please provide details.

<ESMA_QUESTION_GLESI_24>

Not applicable.

<ESMA_QUESTION_GLESI_24>

Q25 Do you wish to raise any other points which ESMA should consider as it finalises the guidelines?

<ESMA_QUESTION_GLESI_25>

We have no other points.

<ESMA_QUESTION_GLESI_25>