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European Securities and Markets Authority

Survey on collection of evidence on undue short-term pressure from the financial sector on corporations

Fields marked with * are mandatory.

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Introduction

Under Action 10 of the Action Plan ‘Financing Sustainable Growth’ [1], the European Commission has invited [2] the three European Supervisory Authorities (ESAs) to each develop a report presenting evidence and possible advice on potential undue short-termism. Short-termism can be defined as “the focus on short time horizons by both corporate managers and financial markets, prioritising near-term shareholder interests over long-term growth of the firm”[3].

The Commission’s mandate indicates that decisions taken by corporations do not fully reflect long-term aspects that would be required to put the EU economy on a sustainable path and manage the transition towards a low carbon economy. In particular, as a result of short-term market pressures, some companies may under-invest in long-term value drivers such as innovation and human capital and overlook environmental and social objectives that require a long-term orientation. Consequently, sustainability faces obstacles to develop in a context where incentives, market pressures and prevailing company culture prompt market participants to focus on near-term performance at the expense of mid- to long-term objectives.

Following an initial analysis based on desk research and preliminary quantitative evidence, ESMA has identified six areas which it considers relevant to examine in relation to the Commission’s mandate.

These areas are:

- Investment strategy and investment horizon;
- Disclosure of Environmental, Social and Governance (ESG) factors and the contribution of such disclosure to long-term investment strategies;
- The role of fair value in better investment decision-making;
- Institutional investors' engagement;
- Remuneration of fund managers and corporate executives;
- and Use of CDS by investment funds

ESMA is not claiming there is a causal relationship between the abovementioned areas and short-termism; it is rather seeking the views of stakeholders on these areas in order to better understand their interaction with short-termism. As such, responses to this survey will contribute to ESMA's analysis of potential sources of undue short-termism on corporations stemming from the financial sector in the areas of focus. Additionally, responses to the survey will back the identification of any other areas in which short-term behaviour is problematic and where the regulatory rules exasperate (or mitigate) short-term pressures.

Overall, with this survey ESMA is seeking to collect information on market practices and the views of financial market participants. By responding to the questionnaire, market participants will contribute to ESMA's advice to the Commission and as such help shape future policy decisions in relation to short-termism in the financial sector.

[1] European Commission Action Plan Financing Sustainable Growth.

[2] Call for advice to the European Supervisory Authorities to collect evidence of undue short-term pressure from the financial sector on corporations.

[3] Definition of short-termism provided in the second paragraph of section 1 of the Commission's mandate (Mason, 2015).

Structure of the questionnaire

Section I: General information about respondent

The first section of the questionnaire contains questions which will help ESMA understand respondents' profile and whether they agree for their response to the questionnaire to be published on ESMA's website.

All respondents are invited to respond to the questions in this section.

Section II: Investment strategy and investment horizon

In this section of the questionnaire, ESMA invites respondents to provide information on the key features and the focus of their investment strategy as well as on the time horizon(s) they use in their business activities. The questions aim to collect comprehensive information on the strategic approach taken by various market players, depending on their role and objectives, in order to get a broad understanding of how they prioritise short- and long-term values in their investment activities. The responses to the questions in this section are intended to provide evidence on how consistent the long-term value drivers of the investment strategy are with the investment timeframe and the global approach for investment decision-making, and which specific considerations in investment strategies may induce short-termism.

The section is open to all respondents as it seeks information on the interaction between short-termism and general business activities. The questions relating to portfolio holdings are addressed to asset owners and asset managers.

Section III: Disclosure on ESG factors and the contribution of such disclosure to long-term investment strategies

The context for the questions in this section is the EU's 2014 adoption of the Non-Financial Reporting Directive (hereafter 'NFRD') in order to enhance the consistency and comparability of non-financial information disclosed throughout the Union. The NFRD requires large EU companies to disclose information on matters relating to the environment, social and employee aspects, respect for human rights, anti-corruption and bribery issues in an annual non-financial statement to be presented either in the management report or in a separate document.[1]

The NFRD came into force in 2014 for reporting on the financial year starting on 1 January 2017 or during the calendar year 2017, which means that two waves of mandatory non-financial information have now been published in most jurisdictions. Section III of the questionnaire collects information on the experience of market participants with these first two disclosure waves by asking whether, how and to what extent public disclosure on ESG factors, which complements traditional financial disclosure by listed companies, can enable investors to integrate in their decision-making process considerations on a company's current and future ability to create long-term sustainable value for its shareholders and for the society at large. Furthermore, this section raises the question whether any changes relating to requirements on non-financial information are needed at European level to enable investors to take long-term investment decisions.

The questions in this section are primarily addressed to institutional and retail investors that make use of information in issuers' public reporting in their investment decisions, as well as to issuers that provide such ESG related information to investors.

[1] Additionally, the forthcoming Regulation of the European Parliament and of the Council on sustainability-related disclosures in the financial services sector (2018/0179(COD)) will require financial advisers to publish information on their policies on the integration of sustainability risks in their investment advice or insurance advice. However, as this Regulation has not yet entered into force and will not be applicable until 15 months after entry into force, it is not possible at this stage to assess its impact, and it is as such not covered in the questionnaire.

Section IV: The role of fair value in better investment decision-making

In this section of the questionnaire, ESMA seeks to collect further information related to the following statement from the report [1] of the High Level Expert Group (hereafter 'HLEG'): "there is considerable disagreement among interested parties on the appropriate accounting treatment for long-term investments, in particular on whether long-term assets on investors' balance sheets should be valued based on the currently prevailing (daily) market prices – also known as 'mark-to-market' valuation or 'fair value' accounting […] The debate is mainly around equity, equity-type and listed credit instruments on the balance sheets of long-term investors, such as non-financial corporations, insurance companies and banks."

The section contains questions on whether and how fair value may impact the capacity of financial reporting to provide relevant and reliable information on equity instruments held for long-term investment purposes. Responses in this area will help ESMA to assess how the measurement and disclosure of fair value may impact the selection of a short- or long-term horizon, as well as to assess whether the transparency benefits arising from the use of fair value for financial instruments, particularly equity instruments, outweigh the intrinsic potential volatility of fair value. Furthermore, whilst Level 1 fair value measurement is based on quoted prices in active markets and, as such, it has a high degree of reliability, ESMA is also interested in exploring the usefulness of Level 2 and Level 3 fair value measurements [2] and the extent to which investors are willing to take these fair value measurements into consideration in their long-term investment decisions.

The European Commission has issued two requests for advice to the European Financial Reporting Advisory Group (EFRAG) to assess the impact of IFRS 9 Financial Instruments on equity investments and to investigate potential alternatives to fair value accounting for equity and equity-type instruments held for the long-term. ESMA closely monitors and contributes to EFRAG's work in this area [3]. In section IV of the questionnaire ESMA investigates more specifically the reasons underlying any connection between fair value accounting and the emergence of short-term pressures in the investment practice of issuers.

The questions in this section are primarily addressed to institutional and retail investors that make use of information in issuers' financial statements in their investment decisions, as well as to issuers that prepare financial statements.

[1] https://ec.europa.eu/info/sites/info/files/180131-sustainable-finance-final-report_en.pdf

[2] Inputs to Level 2 fair value measurements are inputs other than quoted prices included within Level 1 that are observable for the asset or liability, either directly or indirectly. Inputs to Level 3 fair value measurements are unobservable inputs for the asset or liability.

[3] http://www.efrag.org/News/Public-183/New-EFRAG-consultation-on-Equity-Instruments--Research-on-Measurement

Section V: Institutional investors' engagement

In this section, ESMA invites institutional investors to share their experiences and views on whether and how they monitor the long-term value maximisation of their investee companies by further engaging with them and voicing their potential concerns. The questions of this section indirectly relate to the revised Shareholder Rights Directive that established specific requirements in order to encourage shareholder engagement in EU listed companies. ESMA acknowledges that the Directive has entered into application only recently. In this section ESMA seeks to collect information on how engagement activities are put in place at the time of the publication of the questionnaire based on the current regulatory framework in the relevant Member States.

For the purposes of this questionnaire, engagement is defined as any monitoring and interaction by institutional investors with investee companies, including the exercise of voting rights and other activities to influence the investee company such as activist strategies.

The questions in this section are primarily addressed to institutional investors.

Section VI: Remuneration of fund managers and corporate executives

In this section, ESMA examines whether remuneration policy and practices of fund managers can be a driver of short-termism. Stakeholder feedback in this regard will provide further evidence in relation to the statements of the HLEG report about the “frequent separation of the behaviour of some financial intermediaries from the preferences of the ultimate beneficiaries” and that “job tenure and financial rewards for analysts, asset/money managers and traders” can be heavily dependent on short-term returns.

The questions in part A of this section are addressed to UCITS management companies, AIFMs, and self-managed UCITS investment companies and AIFs as they relate to how remuneration practices impact investment behaviour of asset managers vis-à-vis the funds they manage and the investors in such funds. The questions are particularly related to the requirements arising from the UCITS Directive [1], AIFMD [2], the Guidelines on sound remuneration practices under the UCITS Directive [3] and the Guidelines on sound remuneration practices under the AIFMD [4].

The questions in part B of this section are primarily addressed to issuers with reference to the remuneration packages assigned to their executives. Evidence on this aspect is expected to provide an indication of how executives’ incentives to pursue long-term vs. short-term performance can be skewed by the way their remuneration package is designed.

In addition, each section invites all stakeholders to comment on the potential contribution to short-termism from remuneration practices for fund managers or corporate executives.

[1] Directive 2009/65/EC

[2] Directive 2011/61/EU

[3] ESMA/2016/575

[4] ESMA/2013/232

Section VII: Use of CDS by investment funds

Building on the work already conducted by ESMA [1] looking at the prevalence of sell-only or net sell Credit Default Swaps (CDS) positions held by UCITS funds, this section of the questionnaire aims to collect information on the use of CDS by all investment funds. The existing evidence shows some use of sell only or net sell holdings of CDS and ESMA would like to explore this topic further in the context of short-termism. ESMA will use the information it collects from stakeholders to assess whether the use of such instruments could be one of the potential drivers of short-termism.

Sell-only or net sell CDS positions may indicate increased short-term risk taking by funds in order to generate short-term profits, thereby diverting funds from investment in the real economy and indirectly contributing to a short-term profit taking approach. This is why ESMA would like to explore this area by gathering evidence from stakeholders, particularly regarding the reasons for sell only or net sell holdings of CDS positions, and how the tail risk of CDS is managed. ESMA recognises that there may be other categories of derivatives that may also merit attention, so one of the questions allows respondents to comment on other products as well.

The questions in this section of the questionnaire are addressed to UCITS management companies, self-managed UCITS investment companies and AIFMs.

[1] (see “Drivers of CDS usage by EU investment funds” in Trends, Risks and Vulnerabilities Report No.2 from 2018)

Section VIII: Final

The last section of the questionnaire gives respondents the chance to raise any additional considerations on the topic of undue short-term pressure on corporations from the financial sector which they have not been able to reflect elsewhere in the survey.

All respondents are invited to respond to this part of the questionnaire.

How to respond

Deadline

ESMA will consider all responses received by **29 July 2019**

Technical instructions

The questionnaire is presented in EUSurvey which is the European Commission's online survey making tool.

In order to access the questionnaire, please click on the following link: https://ec.europa.eu/eusurvey/runner/ESMA-SUS-2019

When you click on the link, EUSurvey will open in your default browser and you will see the questionnaire. Before starting to fill in the questionnaire, we encourage you to read through all questions.

As you go through the questionnaire and fill in your responses, additional questions will sometimes appear. Such additional questions are based on your response to a previous question and are intended to collect further information about the response you have provided. However, unless specifically mentioned, you are invited to respond to all questions.

The full set of responses is submitted by clicking the "Submit" button at the end of the questionnaire. Upon submission, the system will offer you to print or download your responses for your own reference.

For any questions regarding the questionnaire, please send an email to short.termism@esma.europa.eu

Publication of responses

All contributions received will be published following the close of the survey, unless you request otherwise. Please clearly indicate under question [6] if you do not wish your contribution 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’.

Definitions, abbreviations, and legal references

CDS
Credit Default Swaps

Corporate executives
Top managers, such as the Chair or the CEO, and/or members of the board of directors.

Engagement
For the purpose of this questionnaire, any monitoring and interaction by institutional investors with investee companies, including the exercise of voting rights and other activities to influence the investee company such as activist strategies

ESG
Environmental, Social and Governance

Fair value
The price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date (IFRS 13)

HLEG
High Level Expert Group

Holding period
For the purpose of this questionnaire, ‘holding period’ is defined as the elapsed time between the initial date of purchase and the date on which the investment is sold or matured if held to maturity.

Identified Staff
Categories of staff, including senior management, risk takers, control functions and any employee receiving total remuneration that falls into the remuneration bracket of senior management and risk takers, whose professional activities have a material impact on the management company’s risk profile or the risk profiles of the UCITS that it manages and categories of staff of the entity(ies) to which investment management activities have been delegated by the management company, whose professional activities have a material impact on the risk profiles of the UCITS that the management corporate manages.

Institutional investors
Asset owners or asset managers acting on their behalf

Long-term investment / value
For the purpose of this questionnaire, please consider these expressions in the context set out in the Commission’s mandate on undue short-termism and in the European Commission’s Action Plan ‘Financing Sustainable Growth’.

Non-Financial Reporting Directive / NFRD

Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups

Revised Shareholder Rights Directive
Directive (EU) 2017/828 of the European Parliament and of the Council of 17 May 2017 amending Directive 2007/36/EC as regards the encouragement of long-term shareholder engagement

Short-termism
The focus on short time horizons by both corporate managers and financial markets, prioritising near-term shareholder interests over long-term growth of the firm

I. General information about respondent

Please note that the questionnaire should be read in conjunction with the explanatory note, definitions and instructions. If you have not already read the explanatory note, please do so before you start filling in your responses.

* 1. Name of the company / organisation

1400 character(s) maximum

BVI

* 2. Type of respondent

Other

* Please specify

1400 character(s) maximum

BVI represents the interests of the German fund industry at national and international level. The association promotes sensible regulation of the fund business as well as fair competition vis-à-vis policy makers and regulators. Fund companies act as trustees in the sole interest of the investor and are subject to strict regulation. Funds match funding investors and the capital demands of companies and governments, thus fulfilling an important macro-economic function. BVI's more than 100 members manage assets of some 3 trillion euros for private investors, insurance companies, pension and retirement schemes, banks, churches and foundations. With a share of 22% in the EU Germany represents the largest fund market as well as the second fastest growing market in the EU. BVI's ID number in the EU Transparency Register is 96816064173-47. For more information, please visit www.bvi.de/en.

* 3. Industry

Financials

* 4. Are you representing an association?

- (•) Yes
- ( )

No

* 5. Country

Germany

* 6. Please indicate if wish to have your response published on the ESMA website

- [ ] I do not wish my response to be published
- [x] I wish my response to be published

* 7. This questionnaire considers long-term investment in the framework of sustainable finance, under the assumption that long-term investment projects should be consistent with the objective of supporting the shift towards a more sustainable financial and economic system. In this context, for the purpose of filling in this questionnaire, what timeframe would you consider when defining long-term investment?

- ( ) 3-5 years
- ( ) 6-10 years
- ( ) 11-30 years
- ( ) +30 years
- (•) Other

* Please explain your response

1400 character(s) maximum

Understanding of "long-term investment" naturally differs depending on the asset classes involved and the investment horizon of the end-investors. For institutional investors like pension funds and insurance companies pursuing buy-and-hold strategies, long-term investment might mean a timeframe of 30 or even more years, whereas such long time-horizons often do not match the consumption saving needs of retail investors beyond old-age provision. Generally speaking, long-term investment in the retail space is often thought of in terms of a range of at least seven to ten years, even though no absolute rule applies. We would strongly advise against imposing a specific definition or time-frame for long-term investment in order not to hinder asset managers to cater for their investors' specific needs.

II. Investment strategy and investment horizon

Click here for the list of definitions, abbreviations and legal references included in the Explanatory Note

8. Which time horizon do you apply in your general business activities?

Please tick one time horizon per category

	Less than 1 year	1-4 years	5-8 years	9-12 years	More than 12 years	Not applicable
Overall	( )	( )	( )	( )	( )	( )
- Business strategy	( )	( )	( )	( )	( )	( )
- Profitability	( )	( )	( )	( )	( )	( )

- Funding						
- Investment						
- Trading						
- Other						

9. In your experience, to which extent do the following nodes in the investment value chain contribute to the tendency towards short-termism?

	1: Not at all	2: To a small extent	3: To some extent	4: To a large extent	5: To a great extent
Retail investors		X			
Asset owners (i.e. giving the investment mandate either on their own account or on the account of retail investors)	X				
Asset managers (i.e. those in charge of fulfilling the mandate of asset owners)	X				
Top management of listed issuers			X		
Sell-side analysts				X	
Other				X	

* Please explain your response

2800 character(s) maximum

Beside the sell-side analysts paid to push trading revenues, others, especially the financial press, is helping investors to chase the hot stocks of the day or increase trading turnover at the expense of buy-and-hold strategies by publishing best performing stocks or fund lists.

* Please mention any other nodes of the investment value chain that you believe are affected by the tendency towards short-termism and indicate the extent to which they are affected between 1 (Not at all) and 5 (To a great extent)

1400 character(s) maximum

Beside the sell-side analysts paid to push trading revenues, others, especially the financial press, is helping investors to chase the hot stocks of the day or increase trading turnover at the expense of buy-and-hold strategies by publishing best performing stocks or fund lists.

10. To which extent does each of the following factors result in short-termism by your institution?

	1: Not at all	2: To a small extent	3: To some extent	4: To a large extent	5: To a great extent
Macroeconomic environment	○	●	○	○	○
Prudential regulation	○	○	●	○	○
Market pressures	○	●	○	○	○
Profitability	●	○	○	○	○
Shareholders' interest	●	○	○	○	○
Business objectives	●	○	○	○	○
Competitive pressure	○	●	○	○	○
Client demand	○	●	○	○	○
Company reporting requirements	○	●	○	○	○
Executive remuneration structure	○	○	○	●	○
Other	○	○	○	○	○

* Please explain your response

2800 character(s) maximum

There are still several examples in the market of corporate issuers whose remuneration policies for board members and senior executives are structured in a way detrimental to long-term value enhancement.
Examples include:
- variable remuneration is linked to short-term value increases of a company's stocks
- variable remuneration is linked to a relative total shareholder return based on an inappropriate peer group
- proportion of such variable remuneration is too high (significantly exceeding fix remuneration components)
- malus or claw-back clauses are missing
- retention periods for employee stocks are either missing or too short
- share participation schemes for employees not in place altogether
- share participation schemes are linked to certain earnings per share (EPS) thresholds that need to be achieved during a financial year of an issuer

11. What is the actual holding period prevailing in your investment strategy?

Please respond on a best-effort basis and tick one holding period per category of securities

	Less than 1 year	1-4 years	5-8 years	9-12 years	More than 12 years	Not applicable
Equity	○	○	○	○	○	○
Bonds	○	○	○	○	○	○

Other	◯	◯	◯	◯	◯	◯

12. To which extent does each of the following factors drive the actual holding period prevailing in your investment strategy?

	1: Not at all	2: To a small extent	3: To some extent	4: To a large extent	5: To a great extent
Profitability	◯	◯	◯	◯	◯
Shareholders' interest	◯	◯	◯	◯	◯
Competitive pressure	◯	◯	◯	◯	◯
Client demand	◯	◯	◯	◯	◯
Remuneration practices in the financial sector	◯	◯	◯	◯	◯
Economic activities	◯	◯	◯	◯	◯
ESG	◯	◯	◯	◯	◯
Monetary policies / macroeconomic factors	◯	◯	◯	◯	◯
Non-prudential regulation (e.g. tax regulation)	◯	◯	◯	◯	◯
Prudential regulation	◯	◯	◯	◯	◯
Company reporting requirements (any type of disclosure)	◯	◯	◯	◯	◯
Other	◯	◯	◯	◯	◯

13. On a best-effort basis, in the next 2 years, how do you expect the average holding period of the following portfolios to evolve?

Please tick one holding period per category of assets

	Increasing by less than 6 months	Increasing by 6- 12 months	Increasing by more than 12 months	No (notable) change	Decreasing by less than 6 months	Decreasing by 6-12 months	Decreasing by more than 12 months
Equities	○	○	○	○	○	○	○
Fixed Income	○	○	○	○	○	○	○
Other	○	○	○	○	○	○	○

III. Disclosures on ESG factors and their contribution to long-term investment strategies

Click here for the list of definitions, abbreviations and legal references included in the Explanatory Note

15. Based on your experience, please indicate to which extent you agree with the following statement: “Disclosure of ESG information by listed companies enables investors to take long-term investment decisions”.

- ◯ 1: Totally disagree
- ◉ 2: Mostly disagree
- ◯ 3: Partially disagree and partially agree
- ◯ 4: Mostly agree
- ◯ 5: Totally agree

* 16. Assuming that investors are willing to consider ESG disclosure in their decision-making process, why does disclosure of ESG information by listed companies not enable investors to take long-term investment decisions?

Please respond by selecting one or several items in the list below

- [x] Lack of sufficient independent assurance on the provided ESG disclosure
- [x] Lack of quantitative evidence regarding how the listed company contributes to national or international sustainability targets
- [x] Lack of consistency between the disclosed ESG policies and evidence of the listed company’s actions
- [x] Lack of sufficiently forward-looking disclosure on ESG risks and opportunities
- [ ] Lack of comparability between different listed companies’ disclosure due to the NFRD’s disclosure requirements not being sufficiently detailed and allowing for the use of various disclosure frameworks
- [x] Lack of a clear link between ESG matters and the current and future performance of the listed company
- [ ] Lack of an integrated presentation and analysis of financial and non-financial performance
- [ ] Lack of information on the disclosure framework(s) which listed companies use
- [x] Lack of an explicit statement indicating that the listed company’s Board of Directors takes responsibility for the relevance, accuracy and completeness of the ESG disclosure provided
- [x] Lack of access to / availability of ESG disclosure in data aggregators or other source data providers
- [ ] Lack of sufficient knowledge by investors on how to incorporate ESG disclosure into their decision-making process
- [ ] None of the above, non-financial information is not material to the investment decision
- [x] Other

* Please specify

1400 character(s) maximum

EU companies are not obliged to publish standardised and comparable information on climate or ESG risk. Various international initiatives, including the TCFD recommendations, have recently improved the quantity

of disclosures. However, their overall level remains low and decision-useful information including calculation of indicators and risk scenario analyses is made available only by a few companies. The newly issued EU Guidelines on reporting climate-related information will not remedy the situation, since they also are meant to apply only on a voluntary basis.
From the perspective of institutional investors, this situation is very problematic:
- Fund managers willing to account for ESG considerations or investing in accordance with dedicated ESG strategies still lack sufficient high-quality data in order to fully integrate ESG factors in their assessment of investment risks and opportunities.
- For products pursuing dedicated ESG objectives such as reduction of carbon footprint (impact investments), proper measurement of environmental or social impacts remains a huge challenge and an impediment to market development for such products
- In order to identify principal adverse impact of their investment decisions under the Disclosure Regulation, fund managers will also need reliable and comparable disclosure of sustainability-related information by investee companies.

19. In your view, would requiring specific disclosures on intangible assets which are not accounted for in the financial statements enable long-term investment decisions?

- ○ Yes
- ○ No

20. The NFRD gives companies flexibility to disclose non-financial information to the extent necessary for an understanding of the undertaking's development, performance, position and the impact of its activity in relation to non-financial matters. Do you consider that further requirements are needed to increase the level of detail in the disclosure requirements regarding non-financial information?

- ◉ Yes
- ○ No

* Please indicate which of the following approaches you consider appropriate:

- ○ Detailed disclosure requirements should be set out in an EU regulation (i.e. a piece of legislation which is directly applicable in all EU Member States)
- ○ Detailed disclosure requirements should be included in the NFRD (which is a directive and as such leaves it to Member States to transpose the disclosure requirements into their national law)
- ◉ The NFRD should be amended to require use of a specific, binding disclosure framework (e.g. based on the principles included in the European Commission’s guidelines on non-financial reporting or other established disclosure frameworks)
- ○ Other

* Please explain your response

1400 character(s) maximum

We believe that while it is essential to have the duty for non-financial reporting by investee companies being enshrined in a binding piece of EU legislation (either EU Regulation or EU Directive), the technical reporting standards should be rather referenced to and further specified by means of guidelines. This approach would ensure that any sustainability indicators and other technical specifications for the purpose of reporting could be easily adapted following scientific developments, new market practices as well as further evolvement of the EU Taxonomy. Comparability of corporate disclosures would be ensured by reference to the latest version of the Guidelines in the binding legal act.

21. Do you consider that further steps in the area of non-financial reporting are needed at the national or the European level to enable investors to take long-term investment decisions?

- (x) Yes
- ( ) No

* Please indicate which of the following approaches you consider appropriate:

- [ ] The NFRD should be amended to require a broader group of companies to disclose ESG information
- [x] The NFRD should be amended to require that ESG disclosure is audited by an external, independent entity
- [ ] Enforcement powers on ESG disclosures should be strengthened and made more consistent across the Union
- [x] Other

* Please specify

1400 character(s) maximum

We believe that it is the large public-interest companies that make a difference and can substantially contribute to identifying and managing ESG risks. Therefore, we do not see the need to extend the scope of the disclosure requirements to a broader range of companies. Smaller undertakings, especially those offering solutions for environmental or social problems, may still report on a voluntary basis in order to get broader access to ESG-sensitive sources of financing.
Independent reviews of ESG disclosures, on the other hand, have clearly the potential to ensure appropriate quality of disclosed information which is essential as a basis for evaluations by fund managers and other market participants. Therefore, we are strongly in favour of this suggestion.

IV. The role of fair value in better investment decision-making

Click here for the list of definitions, abbreviations and legal references included in the Explanatory Note

22. Based on your experience, please indicate to which extent you agree with the following statement: “For the purpose of undertaking an internal assessment of the performance of long-term investments held in equity instruments, fair value provides a company’s management with relevant information in order to better understand the short-term and the long-term consequences of the investments held”

- ( ) 1: Totally disagree
- ( ) 2: Mostly disagree
- ( ) 3: Partially disagree and partially agree
- ( ) 4: Mostly agree
- ( ) 5: Totally agree

23. Based on your experience, please indicate to which extent you agree with the following statement: “For the purpose of enabling an external analyst or investor to assess the performance of long-term investments held in equity instruments by a company, fair value provides relevant information in order to better understand the short-term and the long-term consequences of the investments”

- ( ) 1: Totally disagree
- ( ) 2: Mostly disagree

- 3: Partially disagree and partially agree
- 4: Mostly agree
- 5: Totally agree

24. Is the current accounting treatment for equity instruments under IFRS 9 [1] a decisive factor in discouraging a company from undertaking new long-term investments in equities?

[1] Under IFRS 9 Financial Instruments equity instruments are accounted for at fair value with the possibility to exclude fair value changes from the statement of profit or loss

- Yes
- No

25. Is the current accounting treatment for equity instruments under IFRS 9 [1] a decisive factor in triggering divestment by a company of existing equity holdings elected for the long-term?

[1] Under IFRS 9 Financial Instruments equity instruments are accounted for at fair value with the possibility to exclude fair value changes from the statement of profit or loss

- Yes
- No

26. In your view, what are the factors that may impact the relevance to users of financial statements of fair value measurements for long-term investments?

You may choose more than one factor

- Volatility in reported earnings
- Measurement errors (in Level 2 or 3 Fair Value)
- Complexity of calculations (in Level 2 or 3 Fair Value)
- Management's opportunistic behaviour (in Level 2 or 3 Fair Value)
- Insufficient involvement of independent third-party assessment (in Level 2 or 3 Fair Value)
- Limited relationship with the expected developments of fair value in the long-term
- Other

V. Institutional investors' engagement

Click here for the list of definitions, abbreviations and legal references included in the Explanatory Note

27. Is your investment strategy predominantly active or passive?

- Active
- Passive

Please respond to the remainder of this section based on (i) the investment strategy you have indicated under question 27 and (ii) the investment time horizon you have indicated under question 8

28. Please elaborate on how the actual holding period of your investments (as you have indicated under question 11) matches with your investment mandate

1400 character(s) maximum

29. To which extent does your firm integrate long-term value considerations for the purpose of setting its investment strategy (and subsequent portfolio allocation choices)?

- 1: Not at all
- 2: To a small extent
- 3: To some extent
- 4: To a large extent
- 5: To a great extent

30. To which extent does your firm integrate long-term value considerations for the purpose of setting its engagement policy (and subsequent engagement activities)?

- 1: Not at all
- 2: To a small extent
- 3: To some extent
- 4: To a large extent
- 5: To a great extent

31. How does your firm engage with the investee companies in order to mitigate any potential sources of undue short-termism?

Please select one or several options from the below list

- [ ] Voting at the Annual General Meeting (AGM)
- [ ] Private engagement (bilateral meetings, conference calls, etc.)
- [ ] Collective engagement initiatives (coalitions, engagement platforms, etc.)
- [ ] Litigation (or a threat to use litigation as a negotiating tool)
- [ ] Other

*In case you selected **more than one option** in Question 31, please explain how you select different tools used for engagement*

2800 character(s) maximum

* 32. What are the main topics your firm engages on in order to mitigate any potential sources of undue short-termism?

You may choose more than one factor

- [ ] Remuneration of directors
- [ ] Board appointments (including board diversity, independence, tenure)
- [ ] Related party transactions
- [ ] Pay-out policy (dividends, share buybacks, etc.)
- [ ] ESG / sustainability-related
- [x] Other

* Please specify

1400 character(s) maximum

This question is obviously targeted at market participants. We are a trade association.

34. Please indicate your agreement with the following statement: “Proxy advisors take into consideration long-term value when they provide voting advice”

- 1: Totally disagree
- 2: Mostly disagree
- 3: Partially disagree and partially agree
- (x) 4: Mostly agree
- 5: Totally agree

* Please provide quantitative or anecdotal evidence to corroborate your response

1400 character(s) maximum

Proxy advisors help asset managers to implement their respective investment strategy and to fulfill their obligations towards investors. Voting advice for asset managers is based upon voting guidelines provided by a manager either individually or on the basis of an industry standard. For instance, BVI provides its members with analysis guidelines for shareholder meeting which are updated annually (the latest version 2019 is available here). Since asset managers are long-term investors, their voting guidelines clearly aim at long-term value enhancement at investee companies. It is also important to note that voting advice provided by proxy advisors is a mere support service, whereas the ultimate voting decision and responsibility always remains with the asset manager.

35. Please indicate your agreement with the following statement: “Engagement activities can be an efficient way of mitigating any potential sources of undue short -termism”

- 1: Totally disagree
- 2: Mostly disagree
- 3: Partially disagree and partially agree
- 4: Mostly agree
- (x) 5: Totally agree

* Please provide quantitative or anecdotal evidence to corroborate your answer

1400 character(s) maximum

Engagement or stewardship means monitoring of and interaction with investee companies, as well as exercising voting rights attached to shares. Since such interaction relies on a mutual trustful relationship built through dialogue, engagement cannot be successful in the short-term. The goal of engagement is always long-term value enhancement and achievement of long-term KPI targets. In this regard, engagement must be clearly differentiated from shareholder activism and strategies aiming at generating high short-term returns e.g. through share repurchases, higher dividend payments, M&As or spin-offs, or general changes in a company's strategy. Such activist strategies often involve public campaigns with aggressive actions against the management of a target company.

Commitment to long-term engagement by European asset managers is discernible from the EFAMA Stewardship Code (https://www.efama.org/Publications/Public/Corporate_Governance/EFAMA%20Stewardship%20Code.pdf). BVI Code of Conduct refers to the EFAMA Stewardship Code as guidance for the exercise of shareholder rights by BVI members.

36. To which extent do you consider your engagement activities successful in mitigating any potential sources of undue short-termism?

- 1: Not at all
- 2: To a small extent
- 3: To some extent
- 4: To a large extent
- 5: To a great extent

37. Which are the main obstacles that institutional investors face when engaging with investee companies, and how could they be addressed in your view?

2800 character(s) maximum

The following obstacles still hinder effective engagement by institutional investors:
- lack of a common understanding of "acting in concert": The provisions under the EU Takeover Bid Directive relating to "acting in concert" have been implemented and interpreted differently at the national level. The German implementation, for instance, is very strict and encompasses not only shareholders' cooperation on matters related to the execution of voting rights, but any kind of interaction with a view of influencing the enterpreneurial direction of an investee company. Moreover, the clarification of the concept of "acting in concert" by means of the "White List" published by ESMA (ESMA 31-65-682), which is very helpful in general, does not remedy the German situation, since the implementing national law takes prevalence both in BaFin's supervisory practice and before the courts. Given that incorrect notifications of significant voting rights (based on an erroneous understanding of "acting in concert") can lead to the loss of not only voting rights, but also entitlements to dividends and subscriptions, investors need to be very cautious when coordinating on matters concerning German portfolio companies. Similar uncertainties, albeit to a lesser extent, exist also in other Member States.
- In some Member States, there is still the requirement to provide for a notarial certification of the shareholder status, sometimes including a certified translation. Others require a certified power of attorney for the exercise of voting rights. Examples include Poland, Hungary, Latvia, Estonia and Lithuania. In such circumstances, cross-border execution of voting rights is effectively not possible.
- Lack of technical infrastructure that would enable interactions with other shareholders and electronical confirmation of voting results.

38.Please indicate your agreement with the following statement: “The recent entry into application of the revised Shareholder Rights Directive is going to increase the extent to which your firm takes into account long-term value considerations for the purpose of setting your investment strategy and engagement policy”

- 1: Totally disagree
- 2: Mostly disagree
- 3: Partially disagree and partially agree
- 4: Mostly agree
- 5: Totally agree (selected)

* Please elaborate and explain which regulatory improvements could be considered, if any

2800 character(s) maximum

SRD II massively enhances communication between asset managers and asset owners on the long term orientation of the investment strategy. Hence firms will probably be confronted with requests regarding long term orientation more than in the past.

VI. Remuneration of fund managers

Click here for the list of definitions, abbreviations and legal references included in the Explanatory Note

Part A: Remuneration of identified staff in funds

39. What is the average investment horizon of the funds managed by your firm?

Please select one investment horizon per category of fund

	Less than 1 year	1-3 years	3-5 years	5-10 years	Over 10 years	Not applicable
Hedge funds						
Private equity						
Equity						
Fixed income						
Real estate						
Alternative						
Other						

40. In the salaries of identified staff [1] of your firm's funds, what is the average share of the variable component compared to the fixed component?

[1] Defined in the Guidelines on sound remuneration policies under the UCITS Directive (ESMA/2016/575) and Guidelines on sound remuneration policies under the AIFMD (ESMA/2013/232)

	0-20%	20-30%	30-40%	40-50%	Over 50%	Not applicable
Hedge funds						
Private equity						
Equity						
Fixed income						
Real estate						
Alternative						

Other						

41. Over what average time is the reference period for variable remuneration calculated for the identified staff of your firm's funds?

	Less than 1 year	1-4 years	5-8 years	9-12 years	More than 12 years	Not applicable
Hedge funds						
Private equity						
Equity						
Fixed income						
Real estate						
Alternative						
Other						

42. What average percentage of variable remuneration do you defer for identified staff of your firm's funds?

	40-50%	50-60%	60-70%	70-80%	Over 80%	Not Applicable
Hedge funds						
Private equity						
Equity						
Fixed income						
Real estate						
Alternative						
Other						

43. On average, over what period do you defer the payment of the variable remuneration for identified staff of your firm's funds?

	3-4 years	5-6 years	7-8 years	9-10 years	More than 10 years	Not applicable
Hedge funds						
Private equity						

Equity	◯	◯	◯	◯	◯	◯
Fixed income	◯	◯	◯	◯	◯	◯
Real estate	◯	◯	◯	◯	◯	◯
Alternative	◯	◯	◯	◯	◯	◯
Other	◯	◯	◯	◯	◯	◯

44. Do you believe there are common practices in the remuneration of fund managers that contribute to short-termism?

- ◯ Yes
- ◉ No

Part B: Remuneration of corporate executives

45. In your firm, what is the average share of the variable component of executive remuneration compared to the fixed component?

- ◯ 0-20%
- ◯ 21-30%
- ◯ 31-40%
- ◯ 41-50%
- ◯ Over 50%

46. Over what average time is the reference period calculated for variable remuneration of your firm's executives?

- ◯ Less than 1 year
- ◯ 1-4 years
- ◯ 5-8 years
- ◯ 8-12 years
- ◯ Over 12 years

47. Over what average period is the payment of the variable remuneration of your firm's executives deferred?

- ◯ less than 3 years
- ◯ 3-5 years
- ◯ 6-7 years
- ◯ 8-9 years
- ◯ 10 years or more

48. Is the awarding of variable remuneration to your firm's executives linked to any ESG-related objectives?

- ◯ Yes
- ◯ No

49. Do you believe there are common practices in the remuneration of corporate executives that contribute to short-termism?

- (x) Yes
- ( ) No

* Please explain your response and indicate which common practices of corporate executive remuneration contributes to short-termism

2800 character(s) maximum

There are still several examples in the market of corporate issuers whose remuneration policies for board members and senior executives are structured in a way detrimental to long-term value enhancement.
Examples include:
- variable remuneration is linked to short-term value increases of a company's stocks
- variable remuneration is linked to a relative total shareholder return based on an inappropriate peer group
- proportion of such variable remuneration is too high (significantly exceeding fix remuneration components)
- malus or claw-back clauses are missing
- retention periods for employee stocks are either missing or too short
- share participation schemes for employees not in place altogether
- share participation schemes are linked to certain earnings per share (EPS) thresholds that need to be achieved during a financial year of an issuer

Re Q48: According to the remuneration requirements of the UCITS Directive and AIFMD, it is already clarified that the remuneration policy should take into account long term effects of the investment decisions taken. As long as ESG criteria are already part of the investment decision and the variable remuneration is performance related, such a process could (in principle) also involve looking at the ESG criteria. However, the variable remuneration policy should generally be based on the risk profile of the company and the activities of the respective identified staff such as risk taker. For instance, the basis for remuneration is bound by performance in order ensure that functions such as risk controlling and compliance are carried out independently and are not exposed to conflicts of interest.

VII. Use of CDS by investment funds

Click here for the list of definitions, abbreviations and legal references included in the Explanatory Note

50. What percentage of your funds are exposed to CDS?

Please indicate the closest applicable percentage and use 0 to indicate ‘not applicable’

	0%	10%	20%	30%	40%	50%	60%	70%	80%	90%	100%
All funds	○	○	○	○	○	○	○	○	○	○	○
UCITS funds	○	○	○	○	○	○	○	○	○	○	○
AIFs	○	○	○	○	○	○	○	○	○	○	○

51. If your funds are exposed to CDS, what are they primarily exposed to?

Please fill in the table with the applicable percentages and use 0 to indicate 'not applicable'

	Single name CDS	Index CDS	Basket CDS	Other
All funds				
UCITS funds				
AIFs				

*In case you reported a non-zero percentage to **Other** in question 51, please specify which kind of CDS you are referring to*

1400 character(s) maximum

52. What kinds of CDS exposures do your funds hold?

Please fill in the table with the applicable percentages and use 0 to indicate 'not applicable'

	Sell only	Net sell	Net buy	Buy only
All funds				
UCITS funds				
AIFs				

53. If any of your funds hold sell only or net sell CDS positions, what is their primary investment strategy?

	Equity	Fixed income	Alternative	Other
All funds	◯	◯	◯	◯
UCITS funds	◯	◯	◯	◯
AIFs	◯	◯	◯	◯

54. What is the average size of your fund's holding of sell only or net sell CDS exposures, expressed in assets under management (AUM)?

Please select the relevant range for each category

	Below €1 million	€1 million ≤X≥ €10 million	€10 million <X≥ €100 million	€100 million <X≥ €1 billion	Over €1 billion
All funds	◯	◯	◯	◯	◯
UCITS funds	◯	◯	◯	◯	◯
AIFs	◯	◯	◯	◯	◯

55. If you hold sell only or net sell CDS positions in any of your funds, please select in the list below one or several reasons for holding sell only or net sell CDS positions

- ☐ To gain credit exposure to underlying credit name / index / basket
- ☐ To improve returns in fund through collecting CDS premia
- ☐ Other

56. If you hold sell only or net sell CDS positions in any of your funds, do you:

- ☐ Monitor underlying default risk of the CDS reference instrument / index / basket?
- ☐ Believe your positions accentuate tail risk exposure in the funds holding them?
- ☐ Monitor potential tail risk exposure in your funds with sell only or net sell CDS positions?
- ☐ Take into account the leverage in the exposed fund?
- ☐ Other

57. Are there other classes of derivatives used by investment funds that could increase short-termism in the economy?

2800 character(s) maximum

VIII. Final

Click here for the list of definitions, abbreviations and legal references included in the Explanatory Note

58. Do you have any additional input you wish to provide in relation to the topics covered in this survey? Please provide links to any relevant material / publications.

2800 character(s) maximum

59. Do you consider that any topics beyond those covered in the survey should be addressed in ESMA's advice to the European Commission on potential undue short-term pressures exercised by the financial sector on companies? Please provide links to any relevant material / publications.

2800 character(s) maximum

60. Do you have any other comments or thoughts on the issue of short-termism? Please provide links to any relevant material / publications.

2800 character(s) maximum

Re Q40: Our members do not publish certain figures such as specific information on the remuneration of individuals. However, since 2013 all AIF managers are obliged to prepare annual reports with general information and aggregate amounts. We refer ESMA to the published annual reports at www. bundesanzeiger.de. In addition, under the UCITS Directive such disclosure requirements apply also for UCITS firms. On this basis, we do not see the need to discuss a short-termism effect with regard to remuneration.
Re Q41: According to Annex II(1)(h) of the AIFMD and Article 14b(1)(h) of the UCITS Directive, the assessment of performance must be set in a multi-year framework appropriate to the life-cycle of the investment funds managed by the company in order to ensure that the assessment process is based on longer term performance and that the actual payment of performance-based components of remuneration is spread over a period which takes account of the redemption policy of the investment funds' it manages and their investment risks. Hence, the reference period for variable remuneration calculated for the identified staff of a management company can, in principle, not be less than one year. Therefore, we do not see the need to discuss a short-termism effect with regard to remuneration.
Re Q42: According to Annex II(1)(n) of the AIFMD and Article 14b(1)(n) of the UCITS Directive, a substantial portion, and in any event at least 40 %, of the variable remuneration component, must be deferred over a period which is appropriate in view of the life cycle and redemption policy of the investment fund concerned and is correctly aligned with the nature of the risks of the investment fund in question. However, in the case of a variable remuneration component of a particularly high amount, at least 60 % of the amount must be deferred. Therefore, we do not see the need to discuss a short-termism effect with regard to remuneration.
Re Q43: According to Annex II(1)(n) of the AIFMD and Article 14b(1)(n) of the UCITS Directive, the period referred to in this point shall be at least three years (AIF three to five years) unless the life cycle of the investment fund concerned is shorter. Therefore, we do not see the need to discuss a short-termism effect in that context.
Re Q44: A remuneration linked short-termism effect would only be conceivable in the case that an individual

such as executives or other identified staff members would wish to inflate early expected earnings at some risk to future profits. Such a short-termism effect can no longer achieved under the strict remuneration requirements of the UCITS Directive (Art. 14b) and AIFMD (Annex II). It is already clarified that a remuneration policy should take into account long term effects of the investment decisions.

Contact

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