



Strengthening Sustainable Financial Markets - Restricting Controversial Weapons

No Controversial Weapons in Investments with a Sustainability Reference

The [ESMA Guidelines on funds' names using ESG or sustainability-related terms](#) stipulate that funds using sustainability-related terms must exclude investments in companies involved in activities related to [controversial weapons](#). In this context, controversial weapons are defined as follows: "controversial weapons shall mean controversial weapons as referred to in international treaties and conventions, United Nations principles and, where applicable, national legislation." The ESMA Guidelines now clarify in their published [Q&A](#) that the relevant reference point for the exclusion of controversial weapons should be that of [SFDR PAI Indicator 14](#). This indicator limits controversial weapons to "anti-personnel mines, cluster munitions, chemical weapons, and biological weapons."

A Targeted Exclusion is Necessary

The ESMA Guidelines do not align with the most widely accepted and applied definition of controversial weapons. Under that definition, weapons are considered controversial if they cause disproportionate impact and excessive suffering, indiscriminately affect civilian populations, and/or have long-term effects lasting years after the end of a conflict.

Restricting the classification of controversial weapons solely to those widely banned or restricted under international treaties is too narrow. Even if ESMA intends to uphold its current position, it must additionally take into account [the UN Convention on Certain Conventional Weapons](#), a key instrument of international humanitarian law that entered into force in 1983. The same applies to the [Treaty on the Prohibition of Nuclear Weapons](#), which entered into force in 2021.

Thus, the definition of controversial weapons used by ESMA and in the SFDR is too limited. At the same time, this reveals the urgent need for clear legislative regulation.



Our Demand: Clear Standards for Investments with a Sustainability Reference

We therefore call on the European legislator to adopt an enumerative legal definition of controversial weapons. This definition must at a minimum include weapons as defined in the:

- a) Chemical Weapons Convention
- b) Biological Weapons Convention
- c) Convention on Cluster Munitions
- d) Anti-Personnel Mine Ban Convention
- e) Treaty on the Prohibition of Nuclear Weapons und
- f) Convention on Certain Conventional Weapons

At the same time, we call for an expansion of the current list of controversial weapons used by ESMA and the underlying regulations, as the existing list is incomplete under the prevailing definition. At present, the following controversial weapons must at least be included:

- a) nuclear, biological, and chemical weapons
- b) anti-personnel mines
- c) cluster munitions
- d) ammunition containing depleted uranium
- e) incendiary weapons (e.g., white phosphorus)
- f) blinding laser weapons
- g) undetectable fragmentation munitions.

We look forward to your feedback and are available for any further questions.