

Ad-Hoc Regulatory Update - Sweden:

In November 2012, the Ethical Committee for Fund Marketing (“ENF”) ruled, through an indicative statement, that some misleading terms such as “absolute return” must not be used in a fund and/or sub-fund name.

It was concluded that the use of this term would be misleading for investors that have limited fund industry experience, i.e. the term gives a false impression that the return is guaranteed.

Following exchanges from our cross border distribution partner with the ENF and the Finansinspektionen, it was understood that these measures can only be taken against members of the Swedish Investment Fund Association.

However, in case of litigation with a Swedish investor regarding “misleading fund denomination”, the Swedish Market Court would rely on the ENF’s statements to interpret the concept of “good marketing practice”. Please note that since the ENF is an independent committee, the Finansinspektionen has no involvement in the work or the ruling of the ENF and does not comment on any of their statements/rules.

Based on the feedback received by our cross border distribution partner, it is our view that instead of changing the legal name of the fund, the best solution (i.e. a cost and time sensitive approach) is to use a marketing name for the fund in line with the ENF’s statements in addition to the legal name.

By legal name, we mean the name used in the fund’s home state prospectus.

In practice, we would suggest that the fund’s marketing documents used in Sweden would include a statement next to the legal name such as: “I Sverige marknadsförs fonden under namnet XYZ” meaning “in Sweden, the fund is marketed under the name XYZ”.

Additionally, in case applicable and required, the fund’s obligatory documents (e.g. prospectus / KIID) may need to make reference to the marketing name in these documents as well.

For your information, the ENF also considers the followings terms as misleading: “*small cap*”, “*kapitaltrygg*” (non-official translation “guaranteed capital”), “*superfonden*” (non-official translation “superfund”), “*Eco*”, “*hjärt-lungfond*” (reference to a local association for lung and heart diseases researches).

We trust this information is of assistance and please do not hesitate to contact us shall you need further information.