

FCA proposes new rules on UK SDR, labelling and greenwashing

AT A GLANCE

October 2022

What's new?

- On 25 October 2022, the FCA published Consultation Paper CP22/20 on [Sustainability Disclosure Requirements \(SDR\) and investment labels](#) seeking views on a package of new measures to tackle greenwashing.
- The measures include a new sustainable investment labelling regime for investment products, new sustainability-related disclosure requirements and a general 'anti-greenwashing' rule.
- The proposed measures will help consumers navigate an increasingly complex sustainable investment landscape, protect them from greenwashing and enable them to factor sustainability considerations into their investment decision making.

What does this mean?

- The FCA is proposing three labels for sustainable investment products:
 - (1) **Sustainable Focus:** products investing in assets that a 'reasonable investor' would consider sustainable
 - (2) **Sustainable Improvers:** products investing to improve the sustainability of assets
 - (3) **Sustainable Impact:** products investing in solutions to environmental or social problems
- The labelling regime will be supported by new rules restricting the use of certain terms (e.g. 'ESG' and 'sustainable') in product names and marketing for products that do not have a sustainable investment label.
- The FCA is also proposing new disclosure requirements as part of the UK SDR regime [announced by the Government last year](#). The FCA is consulting on requiring:
 - **Consumer-facing product-level disclosures** about the investment strategy of the product and relevant sustainability performance metrics in a standalone document.
 - **More detailed product-level and entity-level disclosures** targeted at a wider audience (e.g. institutional investors and consumers seeking more information) that provide greater transparency on a product's sustainability objective, investment strategy and performance in pre-contractual information and sustainability product reports, and transparency on how the firm manages sustainability risks and opportunities when managing investments on behalf of clients in sustainability entity reports.
- The FCA is proposing targeted requirements for distributors of investment products, including financial advisors and investment platforms, to make the labels and consumer-facing disclosures available to consumers.
- The FCA is also proposing a general 'anti-greenwashing' rule clarifying that existing obligations for communications with investors to be clear, fair and not misleading extend to communications concerning sustainability. The regulator notes that firms must also comply with the new Consumer Duty by ensuring that their communications meet the information needs of retail consumers and support understanding and good outcomes for retail customers.

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- The core elements of the consultation paper (CP), i.e. the rules relating to labelling and disclosure will initially apply to FCA-regulated asset managers and distributors of investment products, specifically authorised funds, unauthorised Alternative Investment Funds (AIFs) and portfolio management services, to UK retail investors. However, all FCA-regulated firms will be subject to the 'anti-greenwashing' rule.
- In the CP, the FCA seeks views on expanding the regime to include FCA-regulated asset owners in respect of their investment products.
- The FCA also intends to consult on capturing overseas products, additional requirements for financial advisors, SDR requirements for listed issuers (based on International Sustainability Standards Board (ISSB) standards), strengthening transition planning disclosure requirements, and introducing taxonomy-related disclosure requirements and baseline sustainability metrics.
- Firms should also familiarise themselves with the types of disclosures being proposed. They should begin work now to identify the underlying processes and governance needed to capture the necessary information and develop a plan for obtaining the data required to make the disclosures envisaged.
- The CP indicates that disclosures relating to the UK Green Taxonomy will not initially be required as part of SDR, but the FCA will consider how to introduce them in due course. Firms should look out for developments relating to the UK Green Taxonomy, including the delayed Government consultation and [advice issued by the GTAG](#).
- Despite some similarities with the EU SFDR, the FCA's proposals reflect a different approach. Most notably, SDR proposals for investment products take a principles-based approach and the sustainable investment labels do not perfectly align with SFDR's Article 6, 8 and 9 classifications. This means that firms caught by both regimes will need to comply and manage funds in line with two separate sets of disclosure and labelling requirements.
- Firms should assess how the SDR and labelling regimes will impact their ESG programmes and how these initiatives could be implemented thematically across their organisations in a way that is flexible enough to meet the requirements of new regulation as it develops.

What do firms need to do?

- In light of the new 'anti-greenwashing' rule, firms will need to take stock of their products and ensure that any references to sustainability issues in marketing, product names and client communications are accurate.
- Firms should familiarise themselves with the proposed labels and criteria, and perform an exercise to map their relevant existing products onto the labels.

Next steps

- The consultation closes on 25 January 2023. The FCA intends to publish further consultations building on the proposals in the consultation paper before setting out final rules by the end of Q2 2023.
- The intention is for the anti-greenwashing rule to apply immediately after the final rules are published. The consumer-facing disclosures, detailed pre-contractual disclosures and naming and marketing rules would apply one year later (i.e. from 30 June 2024), the ongoing detailed performance-related disclosure requirements a year after that (30 June 2025) and the detailed entity-level disclosure requirements would be phased in over time, starting with the largest firms (from 30 June 2025) and smaller firms one year later.

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