

# Final FCA anti-greenwashing rule guidance published

28 May 2024

On the 31st May 2024 the new Financial Conduct Authority's (FCA) anti-greenwashing rule comes into force. This is a new rule which aims to ensure sustainable products and services are accurately described to protect consumers.

In anticipation of this rule coming into force, the FCA has published its final guidance (FG24/3) to help the industry comply and understand expectations under the rule. The guidance outlines examples of good and bad practices, with four key things the rule aims to achieve:

- claims should be correct and capable of being substantiated;
- claims should be clear and presented in a way that can be understood;
- claims should be complete – they should not omit or hide important information; and
- comparisons should be fair and meaningful.

Additionally, the FCA has published consultation paper CP24/8 - Extending the sustainability disclosure requirements (SDR) regime to portfolio management.

## Anti-greenwashing guidance FG24/3

Following feedback, the FCA has issued final guidance to provide clarification on the scope of rule, as well as providing examples.

### Scope

Firms will be required to ensure that any references to the sustainability (environmental and/or social characteristics) of products or services, such as any statements, assertions, strategies, targets, policies, information or images are fair, clear and not misleading.

The rule will apply when a firm communicates with a client in the UK regarding products or services or when they communicate or approve such communication for a financial promotion to someone in the UK.

The FCA has further clarified that mention of the Consumer Duty is simply to help with interpretation of the rule and how it would interact with the Duty, and that the rule therefore applies to all authorised firms irrespective of whether they are subject to the Duty.

### Claims should be correct and capable of being substantiated

- Any claims made by firms should be factually correct and not misleading, with no implication, overstatement or exaggeration to suggest features or impact of a product or service which are untrue. This includes ensuring that claims are consistent, without conflicting or contradictory information.
- Products and services should live up to any claims made, and firms able to evidence this at the point in time at which a claim is made.
- Firms should regularly review their claims and supporting evidence to ensure its ongoing compliance with the rule.

### Claims should be clear and presented in a way that can be understood

- Claims made by firms should be transparent, straightforward and easy for the intended audience to understand, without any misleading general statements or terms.
- Firms should consider whether the information they are providing is suitable and useful for the intended audience.

- Firms should consider the impact of visual presentation (e.g. logos, images and colour) in the presentation of claims intended to refer to, or describe, the sustainability characteristics of a product or service and how this may be perceived.
- Firms that are subject to the Consumer Duty, should consider testing communications relating to a product or service, where they are making sustainability-related claims, where appropriate, to check that they are likely to be understood by customers and meet information needs so they can make effective, timely and properly informed decisions.
- Firms that are subject to the Consumer Duty should also ensure they have the necessary information to assess, understand and monitor customer outcomes, including checking that customers are equipped with the information required to make effective, timely and properly informed decisions.

## **Claims should be complete – they should not omit or hide important information**

- Claims should give a representative picture of the product or service. Firms should consider what information is necessary to include and not omit or hide important information that could influence decision-making. Information about the firm itself may be considered part of the 'representative picture' of a product or service. Firms should therefore ensure that such claims meet relevant rules and expectations (outlined below) so that the overall picture is not misleading.
- Where conditions apply or limitations are present, they should be clearly and prominently stated.
- Claims should be balanced and not highlight only positive sustainability aspects where this disguises negative aspects.
- The life cycle of a product or service should be considered when making sustainability-related claims. Claims should be based on the full life cycle or, where certain elements may be more important to a consumer's decision-making process, it should be clear which part of the life cycle the claim relates to.

## **Comparisons should be fair and meaningful**

- Claims made when comparing a product or service should be fair and meaningful.
- Claims comparing the sustainability characteristics of products and services should be on a like for like basis, as well as be clear on what is being compared and how a comparison is being made.
- Firms should be careful not to mislead when making claims about the extent to which a feature of a product or service has sustainability characteristics when it may simply be meeting a minimum standard of compliance with existing legal requirements.
- Evidence to substantiate comparative claims should cover all products or services compared.

## **CP24/8 Extending the Sustainability Disclosure Requirements (SDR) regime to Portfolio Management proposals**

The FCA opened consultation paper [CP24/8](#) on the 23rd of April 2024.

The paper asks for comments on proposals to extend the requirements on how sustainable investments are labelled and explained, to portfolio management, via a similar approach as previously introduced for asset managers.

The consultation will close on the 14th of June 2024, with final rules expected later this year.

## **Existing rules**

There are existing rules which may already cover some of the issues discussed above. The anti-greenwashing rule intends to complement these existing provisions.

One specific area the FCA specifically reminded firms of in its guidance is that whilst the anti-greenwashing rule relates to products and services, "the CMA and ASA's guidance and FCA Principles 6 and 7 or, as relevant, the Consumer Duty (Principle 12 and the rules in PRIN 2A), apply to sustainability-related claims that a firm may make about itself as a firm."

As mentioned above, firms must be mindful of these new rules when assessing the 'representative picture' of products or services which make such claims.

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