

FCA Issues Guiding Principles for Improving the Quality and Clarity of ESG and Sustainable Investments

Jul 22, 2021

Reading Time : **2 min**

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The FCA expressed its concern that the materials submitted to it in connection with authorisation applications for ESG retail funds have not been consistent with the regulatory standards applicable to authorised funds, often including “claims that do not bear scrutiny”. The concerns on “greenwashing” practices echo those expressed by other regulators, including those in the European Union and the United States. Although the letter is addressed to managers of retail funds, the content and the guiding principles set out in the letter are informative to managers that endeavour to best practice and are concerned to avoid greenwashing, including those operating in the wholesale markets.

This may indicate shortcomings in the product design process of the AFM, and applications where such shortcomings have been identified are clearly unlikely to be approved. The FCA articulated its expectation to see material improvements in future applications; clear and accurate ongoing disclosures to investor where funds make ESG-related claims; and evidence that funds are in fact delivering on their stated objectives and/or strategy.

While the FCA is supportive of the innovation in the sustainable investment market, and clearly recognises the challenges the industry faces in order to improve the availability and quality of ESG-related data, it is concerned to ensure clear messaging to the industry that it takes seriously its objective to ensure confidence in the sustainable investment market through high-quality regulation, and will expect firms to place investor interests at the centre of their businesses. In this context, the FCA will be particularly focused to ensure that the products FCA-regulated firms offer are fit for purpose. The FCA highlights the importance of

a well-functioning sustainable investment market to the proper allocation of private capital in furtherance of the United Kingdom's political commitments and objectives to achieve a net zero economy. Investor trust underpins an effective sustainable investment market which the FCA sees as a prerequisite to effectively harnessing investors' private capital to finance the structural transformation to a more sustainable economy.

The FCA articulated certain “guiding principles” in its letter (and discussed in more detail in our [client alert on the same topic](#)), intended to support firms in the design, delivery and disclosure of sustainable investment funds. The guiding principles have been developed with a view to them being compatible with prospective future disclosure rules for sustainable investment funds, including proposed sustainability disclosure requirements that would apply across the economy (and not only to listed companies and firms in the financial services sector), sustainable investment labels improving comparability between products by standardising and enhancing product disclosure regarding sustainability and impact. The guiding principles also dovetail with the proposed Task Force on Climate-Related Financial Disclosures (TCDF)-aligned climate-related disclosure requirements on asset managers and certain listed entities.

The guiding principles will be useful in approaching the development of products that are intended to approximate the standards applicable to Article 8 and Article 9 funds, and set out a common-sense standard against which to assess marketing materials to ensure they do not inadvertently misrepresent the nature and extent of a fund's commitment to sustainability. As more initiatives and requirements are being produced, assistance with ensuring commercial practice aligns with the regulatory expectations on meeting legal obligations is crucial.

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