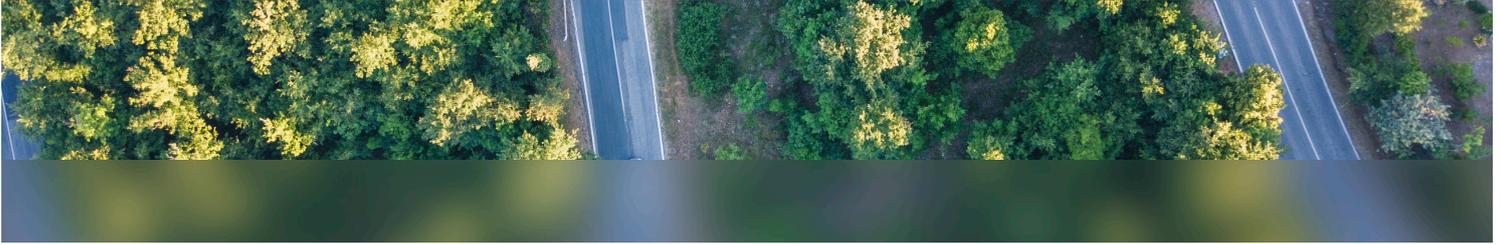


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## THE FCA PUBLISHES FINALISED GUIDANCE ON THE ANTI-GREENWASHING RULE

On 23 April 2024, the FCA issued [Finalised Guidance](#) (Guidance) on the 'anti-greenwashing rule'. The Guidance takes into account feedback received by the FCA in response to its consultation on the anti-greenwashing rule, which was launched in November 2023 alongside its Policy Statement on Sustainability Disclosure Requirements (SDR) and investment labels (PS23/16).

This briefing outlines the key elements of the Guidance and some of the important clarifications that have been made by the FCA in response to feedback from the market.

### Background

The anti-greenwashing rule in ESG 4.3.1R of the FCA Handbook has the broadest scope of the SDR rules and is the first rule to apply. It requires all FCA authorised firms to ensure that any reference to the sustainability characteristics of a product or service is consistent with the sustainability characteristics of the product or service and is fair, clear and not misleading.

The principles-based Guidance is intended to help firm's meet the requirements in practice and across all sectors. Notably, it is consistent with existing regulatory expectations and does not create new obligations for firms. Instead, firms may consider the Guidance as appropriate, depending on the nature of their business and the sustainability-related claims they make.

### Key points of clarification

#### Scope

- The rule applies when a firm:
  - communicates with clients in the UK in relation to a product or service
  - communicates a financial promotion to a person in the UK
  - approves a financial promotion for communication to a person in the UK
- The rule applies with respect to references to the sustainability characteristics of a product or service

- ‘sustainability characteristics’ are considered by the FCA to be environmental or social characteristics and could be present in (inter alia) ‘communications’ that include statements, assertions, strategies, targets, policies, information and images relating to a product or service
- The rule applies to all authorised firms, irrespective of whether they are subject to the Consumer Duty
- The Guidance uses the term ‘audience’ to capture a client or other person that firm maybe communicating with, such as existing or prospective clients, customers, consumers, or businesses
- Firms are subject to other rules that govern claims about the firm itself (as opposed to its products or services)

#### **Interaction with existing requirements and related guidance at the firm level and product level**

Various sections of the FCA Handbook (e.g. PRIN and COBS) already require most firms to ensure that the information they communicate is fair, clear and not misleading. The anti-greenwashing rule is intended to complement and be consistent with these rules, but not override them.

In addition, firms are also subject to other legislation and guidance (outside the FCA Handbook) that applies to sustainability-related claims, e.g. under consumer protection law, which covers what firms say, how they present it and what they fail to say about the environmental impacts or credentials of their products, services, brands and activities. The anti-greenwashing rule and Guidance is consistent with the Competition and Markets Authority’s (CMA) guidance on environmental claims and the requirements of the Advertising Standards Authority’s (ASA) guidance.

Thus, in addition to the anti-greenwashing rule, which relates to *products and services*, firms are reminded that the CMA and ASA 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*.

#### **FCA expectations on the anti-greenwashing rule**

The Guidance makes clear that the FCA expects sustainability references to be:

- Correct and capable of being substantiated
- Clear and presented in a way that can be understood
- Complete - they should not omit or hide important information and should consider the full life cycle of the product or service

Additionally, any comparisons to other products or services should be fair and meaningful.

The Guidance elaborates on the above and includes several (non-exhaustive) examples of how the anti-greenwashing rule could apply in practice, e.g. in the context of investments in fossil fuel companies or to show that the financial sector can support sustainability objectives through channelling finance to support the transition to net zero and the use of visual images and logos for products and services.

The Guidance comes into force on 31 May 2024, at the same time as the anti-greenwashing rule.

*More information on the SDR - The UK's Sustainability Disclosure Requirements Regime - can be found in our earlier [briefing](#).*

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