

# FAQs – FCA consultation on anti-greenwashing guidance, plus final rules on Sustainability Disclosure Requirements (SDR) and ESG product labels regime

December 2023

The FCA has issued the final version of its rules for stage one of the UK's new Sustainability Disclosure Requirements or SDR, together with its new ESG product labelling regime. The rules are detailed and complex. The new rules include restrictions on how managers can use terms like 'ESG', 'green' or 'sustainable' in product names and marketing.

Alongside this, the FCA has issued a guidance consultation on its new anti-greenwashing rule. With these initiatives, the UK hopes to establish its credentials as a leading light on ESG and climate change, and a rival to the EU, already well down the track with its own ambitious proposals, including a consultation on SFDR 2.0.

The UK regime will only apply to UK fund managers for now, although a consultation on overseas retail funds sold into the UK is expected to follow, possibly with other consultations over time to extend the regime's scope. The changes will come at a not insubstantial cost – in an updated cost analysis, the FCA has said the new regime will involve total one-off costs of c. GBP204.8m and new ongoing annual costs of c.GBP34.2m. Those are significant sums. This paper gives our views on certain FAQs – please get in touch if you also wish to see our full briefing on the new rules or our separate FAQs on the anti-greenwashing consultation.

# Introduction

The FCA’s policy statement sets out proposed new rules for an ESG labelling regime for fund managers, as well as the first stage of its new Sustainability Disclosure Requirements (SDR). The paper is 212 pages long, representing a highly detailed and complex ruleset.

## **Key elements of the FCA’s policy statement, published 400 days after the initial consultation paper:**

- An anti-greenwashing rule for all firms to underline the requirement that sustainability-related claims must be fair, clear and not misleading – plus a consultation on supporting guidance to clarify FCA “expectations”.
- Four new ESG-related product labels.
- Naming and marketing rules for funds to ensure the use of ESG-related terms “is accurate”.
- Retail consumer-facing disclosure requirements for funds that use the product labels or sustainability-related terms, with the aim of ensuring they get better and more accessible information to help them understand a fund’s sustainability features.
- Detailed information via pre-contractual and ongoing product-level disclosures for funds that use the labels or sustainability-related terms, which are targeted at institutional investors plus retail consumers wanting more information.
- Detailed information via entity-level disclosures for all UK asset managers with AUM of GBP5 billion or more.
- Requirements for distributors to ensure product-level information is made available to retail consumers.



# Frequently asked questions (FAQs)

## Where can I get a copy of the new proposals?

For a copy of the proposed guidance on the FCA’s anti-greenwashing rule, see <https://www.fca.org.uk/publications/guidance-consultations/gc23-3-guidance-anti-greenwashing-rule>

For a copy of the FCA’s final rules on SDR and the product label regime, see <https://www.fca.org.uk/publication/policy/ps23-16.pdf>

## When will the new rules come into effect?

Key dates re new SDR and labelling regime	Key dates re new anti-greenwashing rule
<p><b>28 November 2023</b></p> <ul style="list-style-type: none"> <li>– Final rules issued</li> </ul>	<p><b>28 November 2023</b> – FCA guidance consultation issued</p>
<p><b>31 July 2024</b></p> <ul style="list-style-type: none"> <li>– Firms can begin to use the new labels and, if they choose to do so, they must comply with the new rules on naming and marketing, consumer-facing disclosure and pre-contractual disclosure. New ongoing product-level disclosure requirements will begin to apply from 12 months after the labels are first used.</li> <li>– New requirements for distributors will apply where a relevant product uses one of the new labels or sustainability-related terms</li> </ul>	<p><b>26 January 2024</b> – End of consultation</p> <p><b>31 May 2024</b> – Anti-greenwashing rule to come into force</p>
<p><b>2 December 2024</b></p> <ul style="list-style-type: none"> <li>– New naming and marketing rules begin to apply to firms using sustainability-related terms without labels. New rules on consumer-facing disclosure and pre-contractual disclosure will also apply. New ongoing product-level disclosure requirements will begin to apply from 12 months after the sustainability-related terms are first used.</li> <li>– New requirements for distributors to inform consumers that overseas funds are not subject to the regime will apply</li> </ul>	<p><b>31 May 2024</b> – New guidance to come into force</p>
<p><b>2 December 2025</b></p> <ul style="list-style-type: none"> <li>– Entity-level disclosure requirements come into force for firms with assets under management of over GBP5bn</li> </ul>	
<p><b>2 December 2026</b></p> <ul style="list-style-type: none"> <li>– Entity-level requirements extended to firms with assets under management of over £5b</li> </ul>	
<p><b>After three years</b></p> <ul style="list-style-type: none"> <li>– FCA to conduct a post-implementation review of the regime</li> </ul>	

## Other relevant next steps

- The FCA says it will consult on proposals for portfolio managers, with a focus on retail, in early 2024.
- In 2024, the FCA is likely to consult on: (i) updating product-level and entity-level disclosure requirements to align with the upcoming UK Sustainability Disclosure Standards<sup>1</sup>, which may be closely based on the standards published by the International Sustainability Standards Board (ISSB); (ii) updating product-level disclosure requirements to refer to the upcoming UK Green Taxonomy, which is due to be consulted upon in late 2023; and (iii) updating the FCA’s guidance on transition plan disclosures by drawing on the work of the UK Transition Plan Taskforce.
- In the medium term, the FCA will consider extending the regime to pension products, and will provide a summary of the feedback received in this regard during the consultation in due course.
- The FCA is continuing to work with HMT to understand the options for extending the regime to overseas recognised funds.
- The FCA has not prescribed a customer-facing template for now (unlike SFDR), but will “continue to stay closely engaged with work under the Future Disclosure Framework to ensure compatibility of requirements. As the framework develops, we will consider how best to facilitate consumers being able to make a holistic, decision-useful, evaluation of a product offering ensuring information on ESG factors and sustainability is considered alongside other risks and costs.”
- The FCA proposes to set up a working group for the advisory industry to build capabilities in relation to sustainable finance.

NB: The FCA previously suggested it may introduce new rules for advisers and IFAs confirming they should take sustainability matters into account in the advice process and understand a client’s preferences on sustainability to ensure their advice is suitable. This would have been in parallel to the new EU regime on sustainability preferences regime (in force from November 2022) and related ESMA guidance. The status of this initiative is unclear.

## Why has the FCA introduced the new SDR and labelling rules?

For the most part, it is an attempt to mitigate the risk of greenwashing:

“We have been concerned that some firms may be making misleading or exaggerated sustainability-related claims about their investment products.”

and

“Our aim with this Sustainability Disclosure Requirements (SDR) and investment labels regime is simple – financial products that are marketed as sustainable should do as they claim and have the evidence to back it up.”

<sup>1</sup> Assuming the UK government make endorsement decisions on the first two ISSB standards by July 2024, the FCA intends to finalise its policy position by the end of 2024, so the updated TCFD-aligned disclosure rules can enter into force for accounting periods beginning on or after 1 January 2025.



The paper also gives a nod to related drivers – eg market integrity, the UK’s desire to be a centre for sustainable finance, a desire to support informed decision making by investors, and the UK’s 2050 net zero target:

“The FCA remains committed to supporting firms and consumers as we embark on this key step in supporting the UK to a more sustainable future. Better industry standards will improve market integrity and consolidate the reputation of the UK as a leading international hub for sustainable finance, helping to attract those looking for genuine, credible sustainability-oriented investment opportunities.”

### **Why such a long delay between the consultation and the final rules?**

This is unclear, but the FCA notes the following: “The package of measures has consumers at its heart and was tested with over 15000 people.”

In March 2023, it also suggested a delay to “take account of the significant response” to the consultation, although this would not account for the lengthy delay that ultimately occurred.

### **Why has the FCA issued the guidance consultation on greenwashing?**

The FCA guidance is stated to have been designed to help firms that make sustainability claims about products and services better understand the FCA’s expectations under the new anti-greenwashing rule and other existing, associated requirements.

“Ultimately, we expect that firms’ sustainability-related claims about their products and services should live up to what they are claiming, and firms should have the evidence to back them up.”

At the heart of the guidance is a requirement that sustainability references should be:

- correct and capable of substantiation
- clear and presented in a way that can be understood

– complete – ie they should not omit or hide important information and should consider the full life cycle of the product or service

– fair and meaningful in relation to any comparisons to other products or services

### **Do the anti-greenwashing rule and guidance represent a change in the law or FCA practice?**

In our view, no – although in practice, the FCA may provide more leeway to firms in terms of taking stock of the new guidance (once it is in final form) and ensuring compliance – in other words, a short period of informal regulatory forbearance.

We note also the FCA statement in the consultation:

“We expect the anti-greenwashing rule and associated guidance to impose a minimal burden on firms, given they broadly reaffirm and help clarify existing requirements and expectations for firms as outlined in the FCA Handbook, consumer protection law, CAP and BCAP Codes, and the CMA’s and ASA’s corresponding guidance.”

### **How do the final rules differ from what was consulted on?**

As noted above, the time between the consultation and the issue of final rules was 400 days – a lengthy period by any estimation. And yet there have been fairly limited changes.

### Anti-greenwashing rule

- The wording of the anti-greenwashing rule has changed, but not so as to change the thrust of what was originally consulted on.
- But the implementation date has been pushed back by half a year. The anti-greenwashing rule was originally proposed to come into effect on the date of the policy statement, and will now only be effective from 31 May 2024.
- Plus, as above, the FCA has issued a guidance consultation to clarify its “expectations” for firms that make claims about the sustainability of a product or service – the text of this consultation is obviously new.

### SDR and new labelling regime

The thrust of the FCA’s proposals remains unchanged from its consultation paper – in other words, it has mostly stuck to its guns, but with some concessions:

- The implementation dates have been pushed back.
- The FCA previously proposed three labels – they have renamed these and added a fourth (Sustainability Mixed Goal). This is intended to apply in relation to sustainable multi-asset or fund of funds strategies. Some alterations have also been made to the details.
- The FCA previously suggested strict limits for funds not using the labels to use phrases such as “ESG” in a fund name or in marketing materials. These rules have been relaxed, subject to conditions (eg see ESG 4.3.5-4.3.10).
- Some of the detailed rules for use of the labels have been clarified or tweaked – eg the stewardship aspect of the “improvers” label has been clarified. The FCA has also clarified that investments in public markets can in theory satisfy the “impact” label. The concept of a “credible standard” in the “sustainability focus” label has been replaced with a reference to a robust, evidence-based standard that is an absolute measure of sustainability, etc.
- The labelling rules for feeder funds are more generous, with a reference to the character of the underlying master fund.
- The new product-level, pre-contractual and consumer-facing disclosure requirements will only apply to providers of products using the labels or sustainability-related terms.
- The new entity-level disclosure requirements apply to all asset managers with AUM above GBP5bn regardless of whether they use a label or sustainability terms.
- The FCA has noted as follows: “We have removed the requirement to identify assets in conflict with the sustainability objective as a labelled product should not include any assets in conflict with the objective. We have added a rule to that effect.”
- The FCA now applies a 70% minimum threshold to all four labels (whereas previously it applied this to only one label) – ie at least 70% of the gross value of the relevant fund’s assets must be invested in line with its sustainability objective.
- The FCA’s draft Implementing Guidance has essentially been withdrawn (for reasons that are not entirely clear) – but it is no longer proposed to issue this as a standalone document.
- The FCA has amended the naming and marketing rules to help consumers navigate and differentiate between products using sustainability-related terms (both with and without labels).

### Portfolio management products and services

The rules have been pared back so they will no longer apply to portfolio management products and services. This is now on the back burner – although the FCA has suggested it may issue a separate paper on this in early 2024.

**If you would like to see an electronic compare of the the initial vs final rules please let us know.**

## If I use the labelling regime, do I need to get external verification?

No. But an independent assessment of the robust, evidence-based standard is required. This can be undertaken via a third party, or via an internal process provided it is independent from the manager's investment process.

## Has the new regime been controversial?

### In some respects, yes:

- The consultation received 240 responses – which is a high number compared to the “norm”.
- The FCA encountered significant industry “push back” to aspects of its project, as well as adverse press following the involvement of a UK Treasury Sub-Committee. This body wrote to the FCA in March 2023, asking the FCA to provide a new cost benefit analysis that estimated the monetary and other costs to consumers of the proposals, including switching costs, considering the FCA's previous cost benefit analysis insufficient.

## What is in scope?

### Anti-greenwashing rule:

- Whole of market – The new anti-greenwashing rule essentially applies to all firms in relation to all products and services (ESG 1.1.3 and 4.3.1).

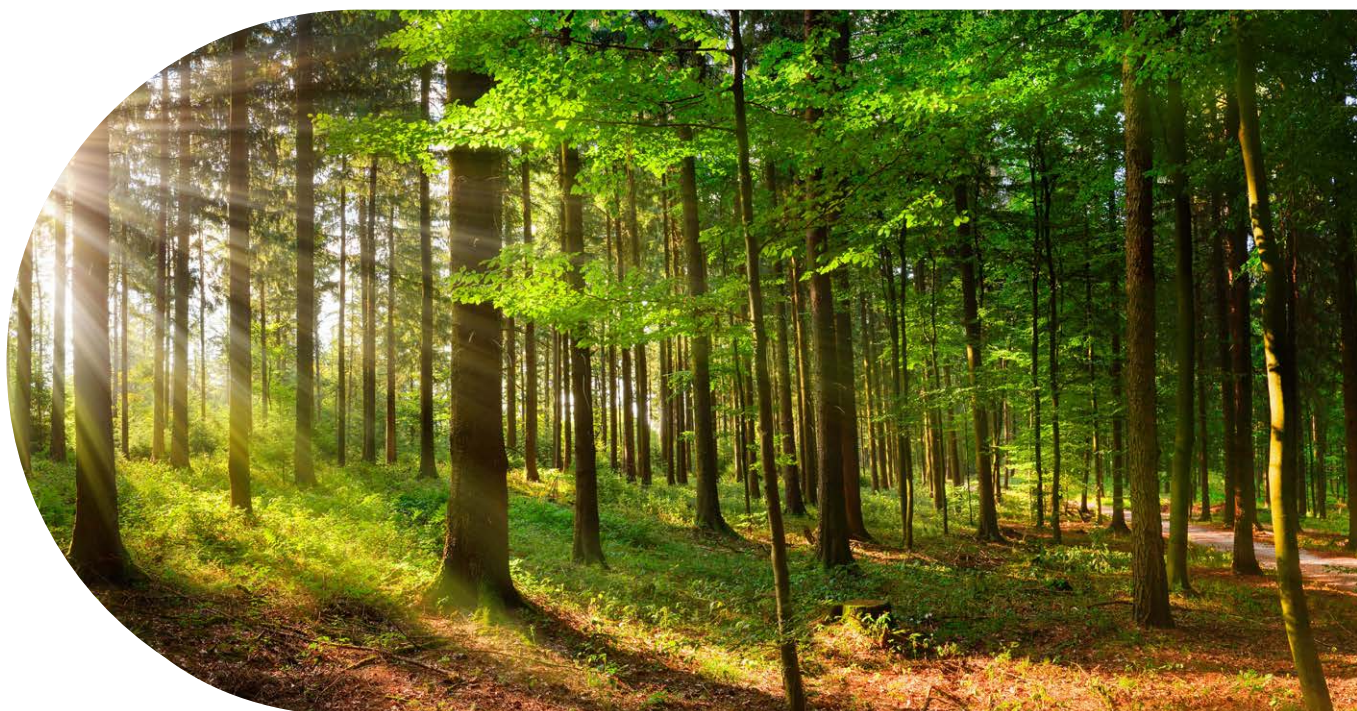
### SDR and labelling regime:

- Funds only – The SDR and labelling regime applies in relation to funds, rather than other types of products and services.
- Retail only – Some aspects of the regime only apply to retail firms and funds. For example, the distribution rules only apply to distributors where they are retail-facing. This strand of the regime will therefore apply to platforms, advisers, IFAs and private banks.

Similarly, the consumer disclosures are only required for retail-facing business.

## Out of scope

- Overseas funds (retail or otherwise).
- Portfolio management products and services (including model portfolios).
- Fund-linked products, structured products, CLOs, derivatives, bonds, pensions etc.
- Certain types of funds are out of scope – eg Social Entrepreneurship Funds (SEFs) and Qualifying Venture Capital Funds (RVECAs).



### **Will the scope of the SDR and labelling regime expand over time?**

Likely yes. The FCA seems minded to extend the scope of the regime from its day 1 application:

- to portfolio management products and services, previously in scope under the consultation but now pared back
- to overseas funds – eg EU UCITS sold to UK retail post Brexit under the new UK overseas funds regime, which is currently a work in progress
- potentially to fund-linked investments and other relevant insurance products (eg IBIPs)
- potentially to pension products and exchange-traded products, ETFs etc

### **Is retail and institutional business in scope of the SDR and the labelling regime?**

Yes, subject to exceptions, e.g. the provisions that apply to distributors relate to retail distribution only. Plus the prohibition on the use of certain words and phrases in product names and marketing (eg ESG, impact etc) only applies to retail-facing business. Similarly, the consumer-facing disclosures are only required for retail-facing business.

### **Are non-UK authorised firms and non-UK products in scope of the SDR and labelling regime?**

As explained above, for now, generally no, but there are nuances. For example:

- A UK distributor selling to retail certain overseas funds (eg an EU UCITS or ETF) must provide a warning if the product uses prescribed terms such as “ESG” (ESG 4.1.19).
- The entity-level disclosure rules capture UK firms’ approach to managing sustainability risks and opportunities in respect of UK and overseas funds managed from the UK.

### **Are non-UK clients and investors in scope?**

#### **For the anti-greenwashing rule:**

- Technically no – in general terms, the rule only applies where a firm communicates with a client in the UK in relation to a product or service, or communicates a financial promotion to a person in the UK.
- However, in our view, the FCA would consider its high-level principles for businesses breached if a firm failed to comply with the new anti-greenwashing rule in any other scenario.

#### **For the SDR and labelling rules:**

- Yes. The location of a client or investor is not relevant to whether the regime applies or not.

### **I am a small firm, am I in scope?**

For the most part yes, subject to some exceptions (eg firms with less than GBP5bn AUM do not have to make certain reports, but would still have to comply with the labelling regime if relevant).

### **I am a small AIFM, am I in scope?**

Yes, subject to the previous answer (although some differences exist in the rules to cater for these types of firms).

### **My fund is closed to new investors – do I still need to classify it under the new labelling regime, comply with the name and marketing rules, or comply with the new disclosure rules?**

If the fund is institutional only and no label is used, no. If it is retail or a mix of retail and institutional, the answer may be yes for some (but possibly not all) of the applicable requirements – we recommend you obtain detailed advice based on the specific circumstances. See also page 66 of the FCA policy statement.

### **I am a UK fund manager selling some of my UK funds into the EU under AIFMD – do I have to comply with both regimes?**

Yes.

### **An EU company in my group manages an EU fund range (AIFs and UCITS), and delegates to me, as a UK portfolio manager. When I manage these portfolios, do I have to comply with the new SDR and labelling regime?**

No – on “day 1” of the new regime, it will not apply to portfolio managers at all.

### **Do I need to make ESG disclosures to customers using a template, like I have to under SFDR?**

No. Where a label is used, the relevant fund manager must prepare a new stand-alone disclosure document for the FCA required sustainability-related information, but no template is prescribed. The FCA also noted as follows: “We... continue to encourage development of an industry-led template and industry collaboration on best practice.”

Where no label is used but the relevant fund has ESG-related terms in its name or marketing, various disclosure and other requirements must be met (eg see ESG 4.3.5 and 4.3.8). This includes a requirement for the manager to provide information (generally in a prominent place on its website) as to the purpose of the UK sustainability labels – and also state: “This product does not have a UK sustainable investment label.”



## What does the new labelling regime mean for short selling, securities lending and derivatives?

The FCA notes that the labels “provide flexibility” on this, but “Firms should be transparent as to how these tools and strategies are used, explaining how they support the attainment of the product’s sustainability objectives” (see pages 99, 103 and 110).

Other key points (emphasis added):

- Where a fund with a label holds assets that do not pursue the product’s sustainability objective – “Firms must identify (and disclose) assets that the product invests in for reasons other than to pursue the sustainability objective, such as cash and **derivatives** used for liquidity and risk management purposes. The product must not invest in **any assets that conflict with its sustainability objective.**”
- How to take derivatives into account in calculating relevant percentages – “For derivatives, we are not being prescriptive around how exposures should be calculated for the purposes of meeting any thresholds. Instead, firms should apply the rules based on the profile of their investment strategy and in the way that best reflects the economic and strategic reality of their exposures.”
- Aligning securities lending with a product’s label – “We do not consider securities lending as being incompatible with sustainable investing as securities lending arrangements **can be tailored** to meet the sustainability objectives of the lending and borrowing parties. Firms should clarify their securities lending policy and **the steps they will take to ensure this is coherent with their products’ sustainable investment strategies. We would also expect that any impacts on voting or broader stewardship activities as a result of securities lending are explained.**”



### **Does the “do not significantly harm” (DNSH) requirement apply under the UK regime?**

No, but there are some requirements that give rise to overlapping considerations, e.g.

“We consider that it is for firms to determine what assets their products invest in. However, it is also important that firms provide sufficient transparency around the types of assets that their products will and will not invest in, so that consumers can make informed investment decisions. This is in line with Consumer Duty requirements. To that end, **we are introducing a rule that requires firms to identify and disclose (in their consumer-facing and precontractual disclosures) if pursuing the positive outcome could result in negative environmental and/or social outcomes.**”

“Firms must identify (and disclose) assets that the product invests in for reasons other than to pursue the sustainability objective, such as cash and derivatives used for liquidity and risk management purposes. **The product must not invest in any assets that conflict with its sustainability objective.**”

### **Does the UK regime require disclosure against the UK or any other taxonomy?**

For now, no.

### **Does the regime apply to advisers?**

Not specifically, although if they are a distributor, the requirements in respect of distribution apply.

### **My business operates globally – does this mean a more fragmented landscape for me?**

There are two points here – the international arena, and the market for retail investment products within the UK.

– In terms of the international landscape, put simply, arguments made to the FCA about taking a more international view rather than “going it alone” have not landed. This means that fund managers with a pan European presence will have to come to terms with the FCA regime in the UK, and also the EU regime. In short, different disclosure requirements in different jurisdictions that take different starting points.

NB: The EU has launched its own consultation on SFDR 2.0, to consider how it might evolve. For our separate briefing on this, please get in touch.

Beyond this point, there are other aspects of fragmentation at play:

- A UK **fund** must use a label, but a structured product or fund-linked policy with the same objective need not.
- A UK **fund** must use a label, but a model portfolio with the same objective and portfolio composition need not.
- A **UK** fund must use a label, but an EU UCITS sold to exactly the same clients in the UK need not.
- EU funds sold to UK retail will be subject to SFDR and the EU taxonomy, with detailed disclosures in line with the RTS templates and other entity and product-level disclosures – UK retail clients will get a totally different set of documents for their UK fund investments.
- Retail UK funds must use the label if they wish to use certain words/phrases in their name and marketing (eg ESG), but institutional funds need not.
- Entity-level disclosure requirements vary across jurisdictions. The ISSB’s global baseline standards should operate to minimise major discrepancies in those jurisdictions that choose to endorse the ISSB standards with limited amendments. However, hurdles to interoperability will remain elsewhere (particularly on issues such as single or double materiality assessments). See our bulletin on the challenges in global regulatory implementation and market adoption of the ISSB standards here<sup>2</sup>.

### **I am a UK-authorised branch of a firm domiciled outside the UK – does the SDR and labelling regime apply to my head office?**

### **I am a UK-authorised firm with a non-UK branch – does the regime apply to my non-UK branch?**

ESG 3.1.2(3) indicates that the rules apply to relevant business carried on from a firm’s UK establishment – or elsewhere, if carried on in relation to a UK AIF. If that is right, the answer to both questions above should generally be no. But a different analysis may be required in some scenarios – eg if there is a cross-border element to what the relevant firm or branch does.

### **I am an institutional fund manager and wish to use the label with my fund range. But will this mean I have to make public-facing product-level disclosures?**

No – an “on demand” obligation applies instead for the benefit of (certain) investors (see ESG 1.2.4 and 5.5.13-16).

<sup>2</sup> <https://www.allenoverly.com/en-gb/global/news-and-insights/publications/issb-sustainability-disclosure-standards-challenges-in-global-regulatory-implementation-and-market-adoption>

### What else can I look at for guidance or information?

For further guidance on the FCA's views on greenwashing risks and issues, as relevant to asset and fund managers, see:

- the findings of the FCA's thematic review into UK authorised funds with ESG or sustainability characteristics, suggesting areas for improvement (16 November 2023)<sup>3</sup>
- the FCA's Dear CEO letter to the asset management industry noting risks in relation to ESG and sustainable investing (3 February 2023)<sup>4</sup>
- the FCA's Dear Chair letter to the authorised funds industry requesting improvements in relation to “ESG & Sustainable Investment Funds” (19 July 2021)<sup>5</sup>

Also, you may look at FCA Occasional Paper 62 which it encouraged firms to consider when producing consumer-facing disclosures: “**Matter of fact-sheets: improving consumer comprehension of financial sustainability disclosures**”. The research in this paper is helpful generally to retail firms, as it sense checks what retail may assume vs what firms may intend to provide, e.g. one takeaway:

“we found a tendency for people to mistakenly believe that all funds with sustainable goals aimed to make a real world impact, whereas in reality ‘Impact’ funds are the only ones that do so. People also tended to overestimate the sustainability credentials of the ‘Transitioning’ (now called ‘Sustainable Improvers’) labelled product, incorrectly believing that it invested mainly in companies or assets that maintain sustainable characteristics.”

The output of this research informed the FCA's proposals on disclosure, but is helpful more broadly to firms in terms of product governance and how they might wish to present and position products in any jurisdiction.

3\_ <https://www.fca.org.uk/publications/multi-firm-reviews/testing-how-authorised-fund-managers-are-embedding-guiding-principles-esg-and-sustainable-investment>

4\_ See <https://www.fca.org.uk/publication/correspondence/portfolio-letter-asset-management-2023.pdf>

5\_ See <https://www.fca.org.uk/publication/correspondence/dear-chair-letter-authorised-esg-sustainable-investment-funds.pdf>

# Side-by-side analysis – EU vs UK

Current SFDR and EU Taxonomy Regulation	UK SDR and labelling regime
<p>Not intended to be a labelling regime, but arguably is</p> <p>No minimum standards for Article 8 products; minimum standards for Article 9 products</p> <p>Highly detailed and complex</p> <p>Product disclosures required to be made using templates</p> <p>Reporting required on PAIs (subject to exception for small firms)</p> <p>Article 8+ and 9 products required to reflect the “do not significantly harm” (DNSH) concept</p> <p>Mandatory product-level reporting against the taxonomy (some products only)</p> <p>Reporting based on a bespoke EU-based regime</p> <p>Product regime covers funds, portfolio mandates, some insurance products, and some pension products</p> <p>Retail and institutional (no difference)</p> <p>In scope – funds sold into the EU under AIFMD</p> <p>No express prohibition on the use of specific words or phrases in product names or marketing material – although ESMA has issued guidance suggesting this is required by general anti-greenwashing considerations</p> <p>Article 8 and 9 SFDR products include a good governance test</p>	<p>Labelling regime</p> <p>Minimum standards for all products using the labels</p> <p>Highly detailed and complex</p> <p>No templates</p> <p>No PAI reporting</p> <p>No DNSH concept, although some similar albeit softer requirements</p> <p>No UK taxonomy yet so no reporting yet required on this for any product</p> <p>Reporting based on TCFD, with a UK overlay and a promise to integrate ISSB requirements, when available</p> <p>Product regime covers funds only for now but possibly portfolio mandates and some insurance and pension products in the future</p> <p>Retail and institutional (although some requirements only apply to retail business)</p> <p>Out of scope – funds sold into the UK</p> <p>Retail only – firms can only use ESG-related terms in a fund’s name or marketing if conditions are met (eg ESG 4.3.5-4.3.10) or a label is used</p> <p>Good governance is not a part of the UK regime</p>

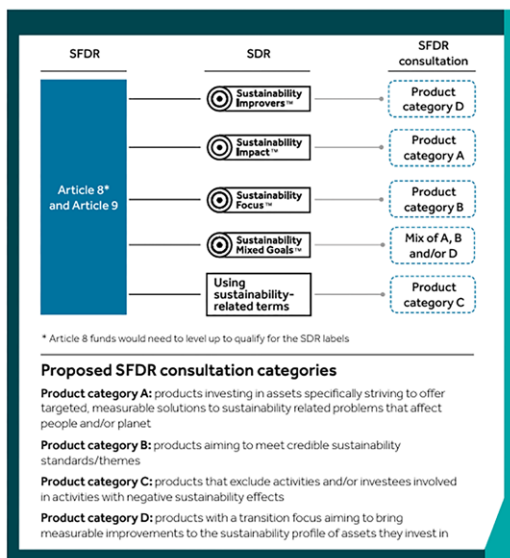


## Further side-by-side analysis

UK Investment Association strategies	EU SFDR regime and Taxonomy Regulation	EU sustainability preferences regime in MIFID II	FCA's new sustainability labelling regime
<ul style="list-style-type: none"> <li>– ESG integration</li> <li>– Exclusion or negative screening</li> <li>– Thematic investing</li> <li>– Best in class or positive screening</li> <li>– Impact investing</li> </ul>	<ul style="list-style-type: none"> <li>– Article 6 products – no ESG ambition</li> <li>– Article 8 products – environmental or social characteristics, plus good governance</li> <li>– Article 8+ products – as above but a minimum percentage of “sustainable investments” in the portfolio</li> <li>– Article 9 products – “sustainable investments” only in the portfolio, subject to limited exceptions</li> <li>– PLUS Article 8+ and 9 products may include taxonomy-aligned investments to a greater or lesser extent – the taxonomy essentially representing a gold standard. Put another way, it is intended to represent “what good looks like” from an environment perspective, taking a science-based approach.</li> </ul>	<p>The new concept in MiFID II of “sustainability preferences” is essentially defined by reference to three “buckets” or categories. In general terms:</p> <ul style="list-style-type: none"> <li>– a product with a minimum proportion invested in taxonomy-aligned investments as per the EU taxonomy</li> <li>– a product with a minimum proportion of “sustainable investments” as per SFDR</li> <li>– a product that considers principal adverse impacts on sustainability factors (basically meaning ESG factors), where the client decides what they really care about</li> </ul>	<ul style="list-style-type: none"> <li>Label 1 – Sustainability Impact</li> <li>Label 2 – Sustainability Improvers</li> <li>Label 3 – Sustainability Focus</li> <li>New Label 4 – Sustainability Mixed Goals</li> </ul>

## EU potential new labelling regime vs UK regime

In Annex 3 of its policy statement, the FCA helpfully mentions the European Commission consultation on SFDR, kicked off in September 2023. It has also mapped the FCA regime onto the potential new label categories that may be introduced in due course under SFDR, via the following graphic.



## Global presence

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