

New FCA anti-greenwashing rule – A regulatory priority



The FCA is stepping up its supervisory toolkit with the introduction of the anti-greenwashing rule which comes into effect on the 31 May 2024. The term ‘greenwashing’ is increasingly common in the financial services industry as firms face increasing scrutiny that they are labelling financial products and services as sustainable in a way that is exaggerated, misleading or unsubstantiated. The rule forms part of the wider Sustainability Disclosure Requirements (SDR) regime, and shows the FCAs bid to make tackling greenwashing a regulatory priority.

The rule applies to all FCA-authorized firms and aims to ensure that sustainability-related claims made by firms regarding their product, services or financial promotions are fair, clear and not misleading. Sustainability related claims can include, but are not limited to, statements, assertions, strategies, targets, policies, information, and images. The introduction of the new regulatory standard hopes to protect consumers and encourages them to make informed decision which correspond with consumers’ sustainability preferences.

What is greenwashing?

To understand the implications of the new rule, it is important to understand the concept which underpins the new framework. Although there is no legal definition, The European Supervisory Authorities (ESAs) outlines the concept of ‘greenwashing’ as *‘...a practice where sustainability – related statements, declarations, actions or communications do not clearly and fairly reflect the underlying profile of an entity, a financial product, or financial service. The practice may be misleading consumers, investors, or other market participants’*. Therefore, greenwashing can be understood as making exaggerated, misleading, or unsubstantiated statements about the positive environmental impact of a company, service or product either intentionally or inadvertently. The consequence of greenwashing is that it misleads consumers and decreases consumer confidence in believing



claims that products and services are sustainable.

How does the anti-greenwashing rule differ from existing rules?

The requirement to be '*clear, fair and not misleading*' already features in various FCA rules for specific firms, such as fund managers and consumer protection. The significance of the new rule is that it focuses on claims in the context of sustainability and extends regulations to apply to all authorised firms regardless of their focus.

The Guidance

Under the FCA's guidance, to comply with the anti-greenwashing rule firms should ensure their sustainability-related claims are:

1. Correct and capable of being substantiated

A firm should not state or imply features of a product or service unless it is factually correct. A claim should not exaggerate the sustainability or positive social and/or environmental impact of a product or service, and it should be able to be supported with robust and credible evidence. Also, where a claim has been made, a firm should make effort to periodically monitor the ongoing compliance of the financial promotion.

The guidance provides the example of a firm making a promotional statement that an investment fund is '*fossil fuel free*', but the terms and conditions set out that the investment fund includes investments involved in production, sale and distribution of fossil fuels.

2. Clear and presented in a way that can be understood

A firm should ensure that terms and information it provides can be understood by the intended audience, and technical terms should be explained unless their meaning is clear and widely understood. The use of vague, broad, or general terms should be avoided, and care should be taken when using images, logos and colour as these form part of the overall presentation of the claim.

The guidance provides the example of a firm placing an image of a rainforest at the top of the website about its saving accounts, with an overlay stating 'Sustainable Savings'. The webpage includes its 'Green Savings Account', which uses deposits to lend to companies to fund sustainable projects, alongside other savings account which do not help sustainable projects. This gives the audience the false impression that all the savings accounts aid sustainable projects.

3. Complete – they should not omit or hide important information

A firm must ensure that claims are presented in a balanced way including both positive and negative impacts of a product, and make clear and prominent if it is dependent on certain conditions and caveats. Similarly, a firm should disclose if information is limited of any information, data or metrics. A claim should be representative of the whole life cycle of a product or service and where a claim focuses on a specific point in the lifecycle this should be made clear.

The guidance provides the example of a bank promoting its 'Green bonds – greening the planet' which are used to finance sustainability projects including renewal energy and improving the energy efficiency of companies. However, the bank omitted information from promotional materials that proceeds can also be used to improve the energy efficiency of fossil fuel production and distributions.

4. Fair and meaningful in relation to any comparison to other products or services



A firm must ensure that comparisons are always fair and meaningful to enable the audience to make informed choices about products or services. Claims that compare sustainability characteristics with products and services should make clear what features are being compared, how a comparison is made, and the comparison should be against a like-for-like product or service.

The guidance provides the example of an insurer offering 'The UK's Greenest Car Insurance', despite having no information to support this claim. The insurance product is therefore likely to be understood by its audience as having the most positive overall impact of all UK car insurance products. The insurance company should ensure that they substantiate how this conclusion was reached and comparisons this claim is based upon.

Practical Implications – What is the next step for FCA-authorized firms?

From the 31 May 2024, firms must ensure current products and services which have sustainability statements against them have evidence to support the claim to comply with the new rule. To ensure consistent compliance, firms should review the FCA Guidance and consider reviewing and updating their financial promotion and marketing frameworks. Additionally, firms should also consider providing staff with training on how to comply with the new rule.



[Holly Palmer](#)

Associate