A&L Goodbody

ESG RESEARCH REPORT SERIES | PART 2

Let’s talk about greenwashing

Within the ESG landscape, ‘greenwashing’ is something of concern to businesses across all sectors, especially consumer-facing businesses and there’s good reason for this from a reputational and regulatory risk perspective.

As part of the European Green Deal, the EU has been clear in its efforts to wipe out greenwashing. With this increased emphasis on preventing greenwashing, it is crucial that Irish companies make this an area of key focus. This article aims to set out some of the key concepts and practices that fall within the scope of ‘greenwashing’ and set the scene for future articles on greenwashing in particular sectors.

8 MIN READ

ALG research

Irish companies are concerned about greenwashing risk. ALG recently published a research report setting out the findings from a survey of over 100 corporate representatives operating in Ireland across a range of industries.

We asked companies about their awareness and understanding of legislative proposals, and explored the E, S and G matters that they are most focused on as well as their companies' current and future compliance plans. On greenwashing, we asked:

- to what degree are you concerned about greenwashing?
- are you aware of two key pieces of legislation related to greenwashing, the Directive for Empowering Consumers for the Green Transition (**GTD**) and the proposed Green Claims Directive (**GCD**)?

We found that 77% of companies were 'concerned' or 'very concerned' about greenwashing. Larger companies were more likely to be 'very concerned' about greenwashing risks (42%) compared to the overall total (31%). Meanwhile, companies in the energy and aviation sectors were more likely to be 'very concerned' about greenwashing (50% and 42% respectively) than those in other sectors.

These findings demonstrate that there is a clear awareness of greenwashing in all sectors. Our research also found that respondents had a good level of awareness of the Corporate Sustainability Reporting Directive (**CSRD**), Taxonomy Regulation, the Corporate Due Diligence Directive (**CSDDD**) and, (where applicable) the Sustainable Finance Disclosure Regulation (**SFDR**) (ranging from just under 90% to approximately 70%). These laws contain reporting obligations that are important in a greenwashing context as they require organisations to make disclosures which can be susceptible to greenwashing risk.

However, it is interesting to note that less than 30% of respondents indicated that they were aware of two key pieces of forthcoming consumer law directives related to greenwashing, the GTD and the proposed GCD. ALG **previously looked** at these important pieces of legislation and what they mean for businesses and we will provide a more in-depth update on these key directives in a publication to follow.

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What is greenwashing?

Originally, the term greenwashing referred to the practice of companies misrepresenting the environmental impact or benefits of their business, products or services. This has been broadened to include all types of sustainability claims. For example, a sustainability report typically has separate sections referring to the environment; social and governance matters, it is not only the section dealing with environmental matters that needs to be considered from a greenwashing perspective; the information set out in the social and governance sections could also be the subject of greenwashing claims.

However, there is no generally accepted definition of 'greenwashing' under relevant legislation. For example, the GTD and GCD do not contain legal definitions of greenwashing, but they do refer to 'greenwashing' as "misleading", "unclear" or "not well substantiated" environmental claims. Some sectoral regulators have given insights on what they consider to be greenwashing. In previous articles, we highlighted the three European Supervisory Authorities' (**ESAs**) common understanding of the concept of greenwashing from a financial services regulatory perspective.

In each of their reports on greenwashing, the relevant supervisory authority refers to greenwashing as a ***"a practice whereby sustainability-related statements, declarations, actions, or communications do not clearly and fairly reflect the underlying sustainability profile of an entity, a financial product, or financial services. This practice may be misleading to consumers, investors, or other market participants"***, however this doesn't need to be the case in order for the practice to be considered to be greenwashing.

The spectrum of activities that fall under the umbrella term of greenwashing has led to a variety of other terms being used to describe the specific type of activity that a company might engage in – and the list of terms is constantly expanding. Whilst there are practical nuances to the precise meaning of each term, they all broadly subscribe to the core underlying principle that greenwashing practices are misleading or unclear. These terms are useful to illustrate the types of practices which give rise to greenwashing risk.

GREENWASHING TERMS INCLUDE:

Greenhushing: Deliberately under-reporting or hiding green credentials to evade scrutiny.

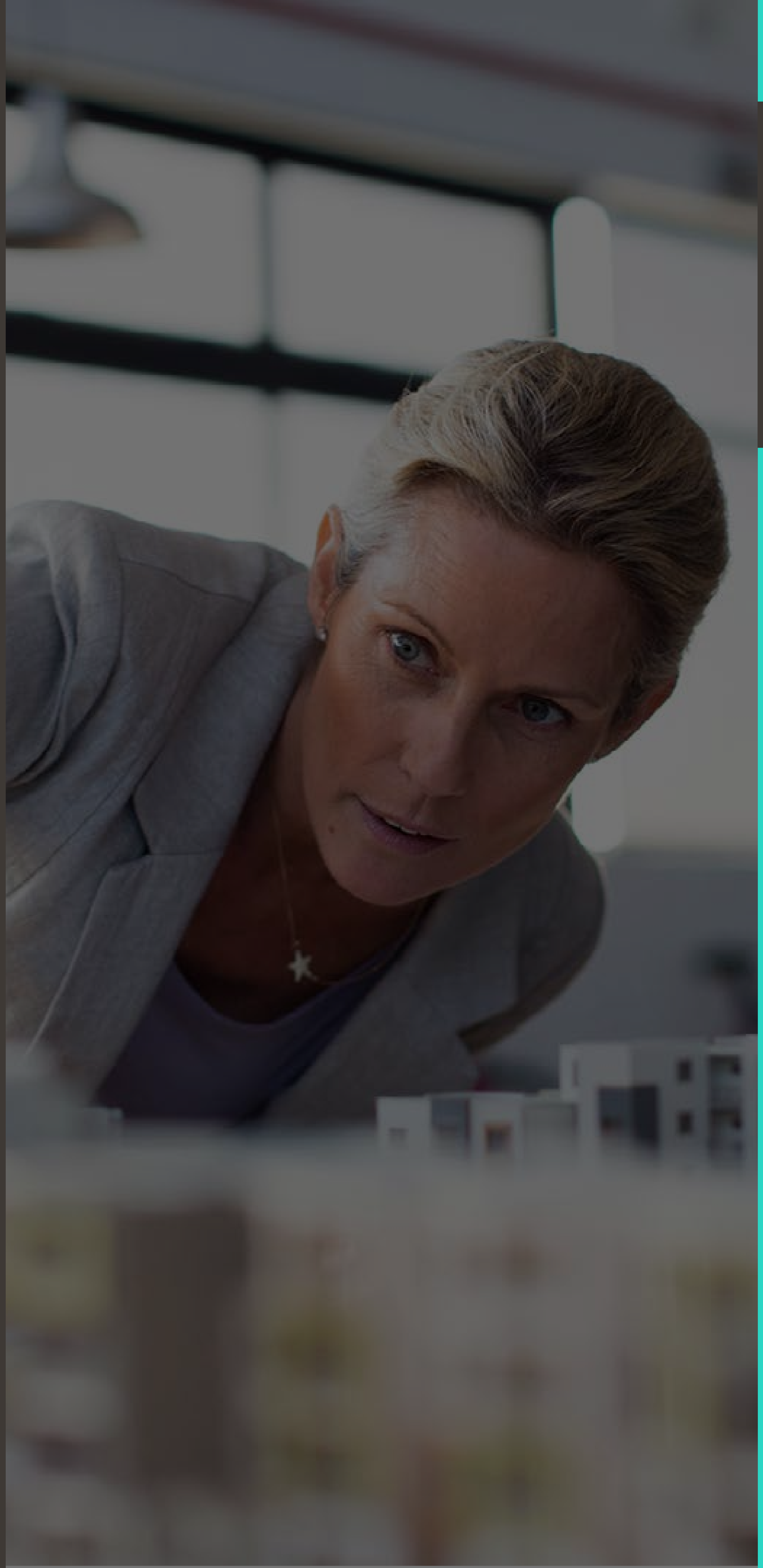
Greenlighting: Spotlighting a particularly green feature and drawing attention away from other environmentally damaging activities.

Greenshifting: Implying that consumer is at fault to shift the blame to them.

Greencrowding: Hiding in a group and moving at the speed of the slowest adopted of sustainable policies.

Greenlabelling: Calling something 'green' or 'sustainable' but closer examination reveals this to be false or misleading.

Greenrinsing: Regularly changing ESG targets before they are achieved.



Why do legislators and regulators consider greenwashing problematic?

Legislators and regulators are primarily concerned that misleading environmental claims may prevent consumers from making informed, sustainable choices. Legislative efforts to counter greenwashing emphasise the importance of clarity and fairness as well as not misleading consumers. Substantiation with scientific evidence is key when tackling greenwashing.

Companies are increasingly highlighting the sustainability features of their products, services and/or operations. It can be difficult for consumers to verify the claims being made. This can lead to a loss of trust from consumers which can ultimately have an adverse impact on the companies making such claims. Legislators and regulators are focused on ensuring that reliable, comparable and verifiable sustainability information is made available to consumers.

To take a sectoral example, the ESAs have issued very detailed views on greenwashing and how to address the associated risks. In Ireland, we have seen the Central Bank of Ireland take note of the ESAs' views, and recent soundbites suggest that there will soon be regulatory developments in this space. Tackling greenwashing also features as a theme in the Central Bank of Ireland's revised Consumer Protection Code, due to come into effect in late March 2026.

Where in my business does greenwashing risk sit?

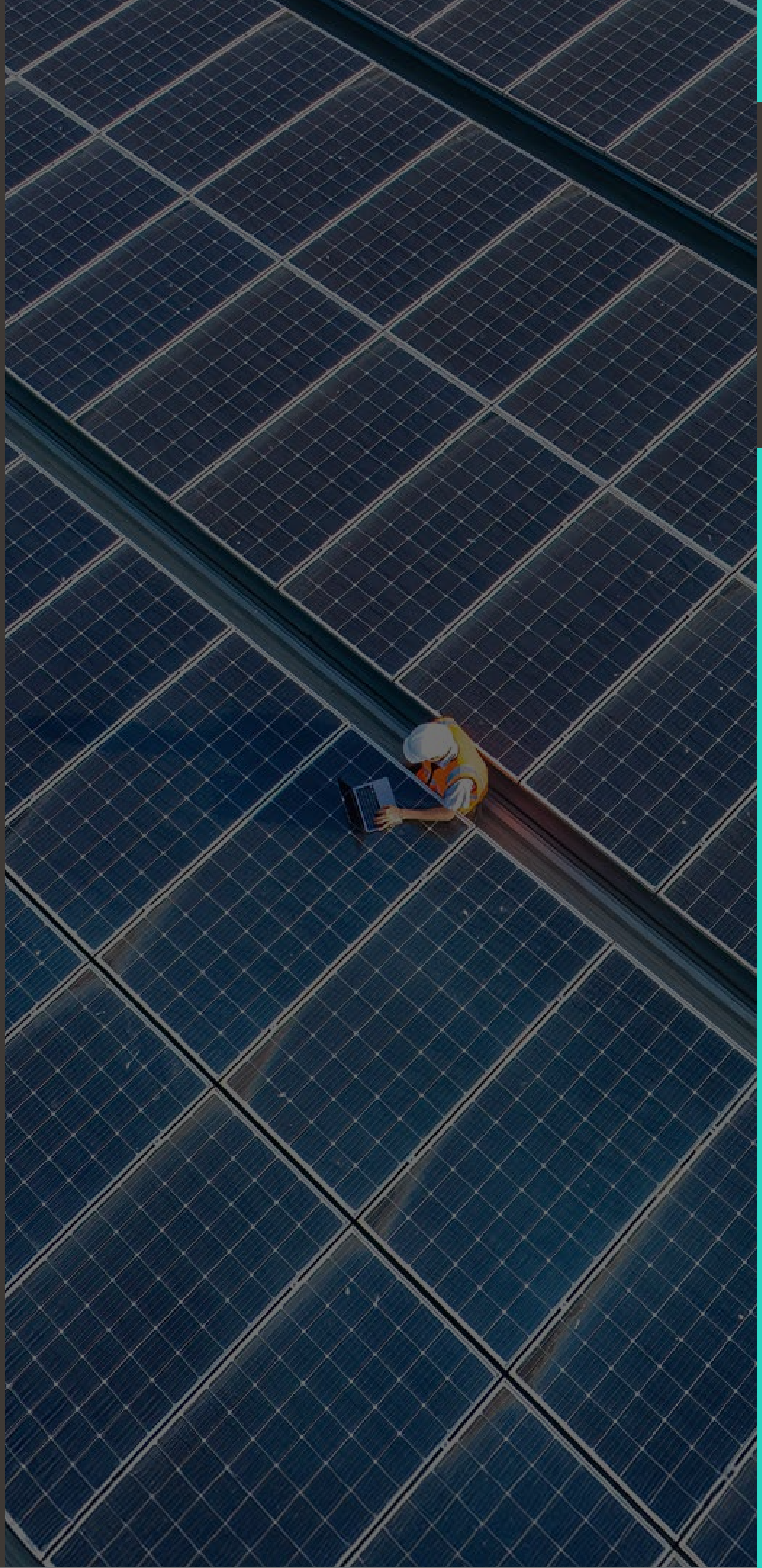
All functions within a business need to be thinking about greenwashing and how it may impact their day to day activities. Greenwashing should be considered at an organisational level, at a product level and in respect of advice.

- **At organisational level:** The risk relates to any claims that are being made about the company itself. For example, making forward-looking commitments such as net zero targets.
- **Arising out of products/services sold:** Where an organisation promotes products/services with sustainability features. For example:
  - packaging made with a percentage of recycled plastic
  - materials that come from more sustainable sources
- **When advice is given:** This can arise generally in the course of advising clients or in specific circumstances. For example, in the financial services sector, in the context of investment advice and taking clients' sustainability preferences into account.

What are some examples of greenwashing?

Practices seen as greenwashing include:

- labelling a product as 'green' or 'sustainable' without supporting evidence
- making misleading claims about a company's climate-friendly credentials
- cherry-picking environmentally friendly aspects of a product to highlight despite potential environmental costs associated with the product
- setting a board diversity target of 40% by 2026 and, in 2025, revising this to 45% by 2030 without acknowledging the changed target or providing an explanation.



Good Practices to help mitigate greenwashing risk

All necessary steps need to be taken to ensure that sustainability information provided is clear, fair and not misleading. In addition, sustainability claims need to be:

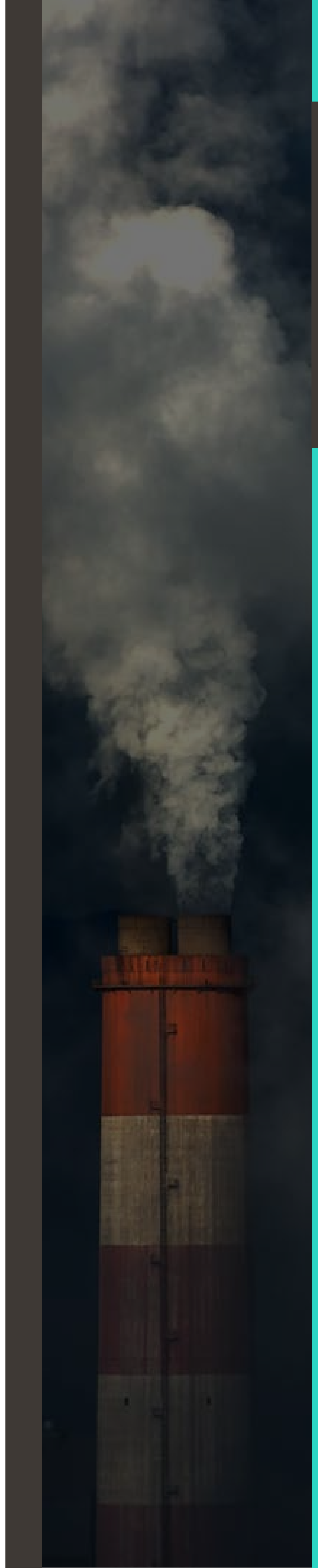
- accurate
- substantiated
- up-to-date
- representative of the company's overall profile or the profile of its product/service
- comprehensible (presented in an understandable manner)

Taking a specific example, forward-looking commitments (such as net zero commitments) are key for businesses as they make plans to reduce their carbon emissions and transition to 'net zero'. To back up these commitments, businesses must have credible plans in place, backed up by scientific evidence. Interim targets and alignment of business practices with the commitments are important, as are sound monitoring and reporting processes which detail the progress being made and any challenges that have been identified which may impact on the ability to meet these commitments.

It is also important for businesses to ensure that disclosures made under different pieces of law (such as the Taxonomy Regulation, CSDDD, CSRD or SFDR) are consistent and aligned to avoid greenwashing claims. Any statements relating to an organisation's climate ambitions and targets featuring on websites, marketing materials, etc. should align with information included in sustainability statements under the CSRD, for example.

Practical steps for businesses

- **Governance** – Train and educate decision-makers in your business on greenwashing (e.g. boards and senior managers and heads of operational divisions) so that they can set the tone as business leaders.
- **Collective responsibility** – Avoiding greenwashing is everybody's job. Make sure your business divisions are speaking to each other and speaking the same language. Production, marketing, salesforce, management, etc. Make ESG and sustainability (including greenwashing) a permanent part of the decision-making agenda.
- **Talent and training** – Educating your existing workforce and being mindful when recruiting to look for the right skillsets and values in prospective candidates.
- **Integration** – While some businesses are more sophisticated than others and may have multi-layered structures (committees, business functions, etc.) consider how you can integrate ESG and sustainability values and avoid greenwashing.
- **Internal organisation** – Remember that greenwashing is not just about products (whether those are widgets or complex financial products); it's also about your organisation, its business model and its approach to doing business.
- **Remember, it's E, S and G** – Don't forget about the separate 'E', 'S' and 'G' aspects of greenwashing and consider the messaging you are communicating publicly about your overall ESG and sustainability goals and position.
- **Don't forget the 'S' lens** – What do diversity, ethics, equal opportunities and the like mean in your business?
- **External support** – Seek expert advice if needed. This is a complex area and there are many potential pitfalls and reporting / disclosure rules (both in force and coming down the track). Your legal advisers will have insights on the rules and market practices.
- **Alignment** – Make sure the jigsaw pieces fit. Most businesses make many statements, claims and disclosures for very different purposes, to very different audiences. Be consistent and join the dots to avoid inadvertent greenwashing.
- **Supply chains** – Don't get tripped up by vicarious greenwashing. Vet your suppliers to ensure that your organisation is part of the solution and not the problem.



Conclusion

With an increased emphasis on preventing greenwashing, it is crucial that businesses are clear on where greenwashing risk can arise and how to minimise it. Companies should avoid misleading sustainability claims and be transparent with consumers and investors about sustainability successes (as well as areas of improvement). Any sustainability claims should be substantiated by scientific evidence. Compliance with relevant Irish and EU regulations will not only lower an organisation's risk of legal or reputational damage; it will also set them up for long-term sustainable growth and improve public perception of their brand.

Resources:

2025 ALG ESG research report

Green Claims and the Green Transition – what do they mean for your business?

ESAs set out regulatory approach to greenwashing in the financial sector

EIOPA publishes final report and opinion on greenwashing

ESMA publishes final report on greenwashing

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