

Greenwashing Risk Management: Understanding Regulatory Expectations



Author: Jill Shaw, ESG & Sustainability Lead, A&L Goodbody LLP.

Introduction

Investor protection continues to be a key area of focus for financial regulators. With sustainability information increasingly playing a role in investor decisions, the European Supervisory Authorities (ESAs) - the European Securities and Markets Authority (ESMA); the European Banking Authority (EBA); and the European Insurance and Occupational Pensions Authority (EIOPA) have specifically highlighted that misleading sustainability claims raise investor protection concerns. The final reports on greenwashing¹ published by each of the ESAs in June 2024 (the Reports) provide examples of practices that firms should consider embedding to mitigate the risk of greenwashing when making sustainability claims.

Greenwashing risk can expose firms to reputational damage, legal action and customer attrition, as well as the potential for financial losses. To mitigate this risk, compliance professionals need to ensure that there are processes and procedures in place around the making of sustainability claims. Whether such claims are being made:

- at an entity level. For example, statements regarding the sustainability strategy or the setting of sustainability targets;
- in respect of a financial product. For example, information on the sustainability characteristics of a product such as marketing materials describing a loan as green;
- in relation to financial advice being given to investors. For example, the extent to which the advice provided takes sustainability into account, they will be captured by the ESAs' common high-level understanding of greenwashing:

“ 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.”

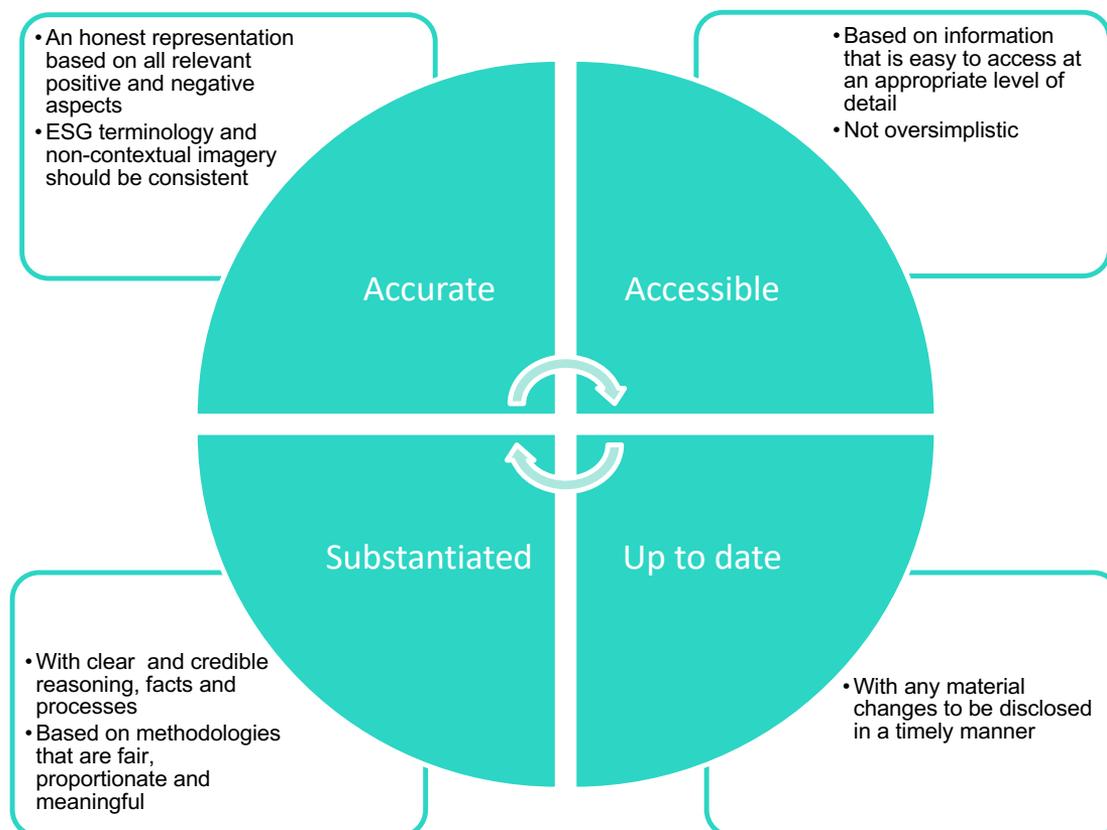
The Reports emphasise that greenwashing can arise at any of these levels, whenever sustainability related statements are made. Crucially, it does not need to be intentional, nor does it need to cause actual investor harm. It can occur in both regulatory and nonregulatory contexts and may stem from a wide range of issues, including omissions, selective disclosure, inconsistent messaging or limitations in the availability and quality of underlying data. The focus is not only on the factual accuracy of the claim, but on the overall impression it creates for investors to ensure transparency.

Best practice

One of the key principles highlighted throughout the Reports is that sustainability information should be clear, fair and not misleading. While each of the Reports provides “best practice” examples for firms to consider, ESMA has also published two thematic notes specifically covering clear, fair and not misleading sustainability related claims (the Notes). The first Note² deals with ESG credentials while the

second Note³ covers ESG strategies. In each Note, ESMA emphasises four guiding principles that should be considered when making sustainability claims as detailed in the below graphic.

ESMA's Four Guiding Principles for Sustainability Related Claims



In both Notes, ESMA sets out “Do’s” and “Don’ts” as well as examples of what ESMA considers to be good or poor practices for the particular types of claims covered by the relevant Note. In the context of ESG credentials, ESMA focuses on three specific types of claims relating to (i) industry initiatives; (ii) labels and awards; and (iii) peer comparisons. Using outdated credentials or credentials that are no longer representative of the current sustainability profile of the firm or a product is provided as an example of a “Don’t”. The Note on ESG strategies focuses on ESG integration and ESG exclusions with it being emphasised that market participants are

expected to communicate in a clear, fair and not misleading manner with investors on the way that ESG integration or ESG exclusions are defined and the elements that are applied under such strategies.

Not only do the Reports and the Notes set out regulatory expectations around the making of sustainability claims, they also provide practical information that should be considered when designing compliance processes to mitigate greenwashing risk.

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REFERENCES

- 1 European Banking Authority, Greenwashing monitoring and supervision (EBA/REP/2024/09, 2024). European Insurance and Occupational Pensions Authority, Advice to the European Commission on greenwashing risks and the supervision of sustainable finance policies (EIOPA-BoS-24-159, 2024). European Securities and Market Authority, Final Report on Greenwashing (ESMA36-287652198-2699, 2024).
- 2 European Securities and Market Authority, Thematic notes on clear, fair & not misleading sustainability-related claims (ESMA36-429234738-154, 2025).
- 3 European Securities and Market Authority, Thematic notes on clear, fair & not misleading sustainability-related claims (ESMA36-429234738-165, 2026).