

Advice to the European Commission on Greenwashing –

PROGRESS REPORT

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eiopa

European Insurance and
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EXECUTIVE SUMMARY

The European Commission (EC) asked EIOPA alongside the two other European Supervisory Authorities (ESAs) to provide advice, for the sectors within their respective remit, on:

- Defining greenwashing;
- Instances, occurrences and complaints relating to greenwashing;
- Supervision of greenwashing, including challenges thereof;
- The status of implementation of sustainable finance related legislation;
- Gaps, inconsistencies, and issues in the current legislative framework which could lead to possible greenwashing.

As per the mandate, this report provides initial findings on greenwashing and outlines the progress made so far. A final report with definitive conclusions will be finalised in May 2024.

Given the cross-sectoral nature of greenwashing, the three ESAs are working together to lay out a 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”.

EIOPA is of the view that greenwashing particularly relates to misleading claims that state or imply that an entity or product benefits the environment or people.

Greenwashing has a substantial impact on insurance and pension consumers – as it can deceive consumers into buying products that are not aligned with their preferences – and on insurance and pension providers – as they might suffer significant reputational damage when the general public is informed about a greenwashing occurrence.

EIOPA finds that greenwashing can manifest – to varying extents – as part of the broader set of conduct risks at all stages of the insurance (e.g., entity level, product manufacturing, delivery and management) and pensions (e.g., scheme design, delivery and management) lifecycles. Throughout the different stages highlighted in the report, potential examples of greenwashing are included to show how greenwashing can occur in practice.

To tackle greenwashing, it is necessary to ensure adequate supervision. Conscious of this, EIOPA and its National Competent Authorities (NCAs) have started to integrate greenwashing in their supervisory activities. While NCAs reported a total of 22 FTEs solely dedicated to sustainability-

related supervisory tasks in the insurance and pension sector, only 10 NCAs believe they have sufficient resources and expertise to tackle greenwashing, 17 believe they do not. 3 NCAs reported having identified one or more occurrence of greenwashing in their market, 5 NCAs are currently investigating potential occurrences of greenwashing, and 21 NCAs have not identified occurrences of greenwashing due to resource constraints, low supply of products with sustainability features, and because the relevant sustainable finance requirements are new or not fully in force.

A number of NCAs have carried out supervisory activities aimed at tackling greenwashing – 13 NCAs to prevent greenwashing and 11 NCAs to identify, mitigate, and investigate greenwashing. Most NCAs reported believing that the current and forthcoming supervisory mandates, powers, obligations and toolkits allow them to sufficiently prevent greenwashing (20 NCAs) and identify, monitor and investigate greenwashing (19 NCAs). However, 23 NCAs noted that some data or tools may be missing. Some insurance and pensions providers are also setting up governance processes to prevent and monitor greenwashing. Finally, greenwashing can also be tackled in part by ensuring that consumers understand at an adequate level sustainability aspects and documentation.

While the European Union (EU) has been at the forefront in setting up a regulatory framework tackling greenwashing, there are a number of shortcomings, inconsistencies and gaps in the framework, highlighted by feedback received in the context of EIOPA's various data-gathering exercises. This report lists some of the key and preliminary issues which will be further expanded – given the current evolution and recent application date – in next year's final report which will also include concrete recommendations.

1. INTRODUCTION

1.1. BACKGROUND

The transition towards a more sustainable economy has been at the heart of the global political debate for a number of years, with the European Union (EU) setting it at the top of its agenda, by developing initiatives aimed at ensuring the EU financial sector contributes to this transition.

Conscious of the transition towards a sustainable economy, the attention of insurance consumers, personal pensions savers and scheme members towards environmental and/or social factors has also increased. Hence, insurance and pension providers¹ have, on one hand, increased the offer of sustainable products and schemes, and, on the other hand, adapted to make their offer and business models more sustainable. Insurance undertakings, given their unique role as society's risk managers also play an important role in ensuring that not only society transitions but also that society adapts and becomes more resilient to climate change.

An increased offer of products with sustainability features, along with the commitments of insurers and pension providers to adopt more sustainable strategies, contributes towards the transition to a more sustainable economy. However, issues arise when institutional investors misleadingly portray themselves and their products/schemes as sustainable by making claims about environmental or social benefits – hence greenwashing.

Alongside its action plan, the EU has taken important steps to prevent greenwashing risks with amongst others the implementation of the Sustainable Finance Disclosure Regulation (SFDR)², of the Taxonomy Regulation (TR)³, of the Insurance Distribution Directive (IDD)'s sustainability-related requirements⁴, the forthcoming Corporate Sustainability Reporting Directive (CSRD)⁵ and the proposal for the European Single Access Point (ESAP) offering a single access point for public financial and sustainability-related information about EU companies and EU investments.

¹ "Insurance and pension providers" is used across this report to encompass – as relevant – insurance undertakings, PEPP manufacturers and distributors, insurance advisors, and IORPs.

² Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability-related disclosures in the financial services sector - [link](#)

³ Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 – [link](#)

⁴ Commission Delegated Regulation (EU) 2021/1257 of 21 April 2021 amending Delegated Regulations (EU) 2017/2358 and (EU) 2017/2359 as regards the integration of sustainability factors, risks and preferences into the product oversight and governance requirements for insurance undertakings and insurance distributors and into the rules on conduct of business and investment advice for insurance-based investment products - [link](#)

⁵ Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC and Directive 2013/34/EU, as regards corporate sustainability reporting - [link](#)

Despite these initiatives, gaps and challenges persist, leading to possible greenwashing risks. Hence, the European Commission (EC) has requested EIOPA alongside the two other European Supervisory Authorities (ESAs – European Banking Authority and European Securities and Markets Authority) to provide advice on greenwashing, including on defining this phenomenon and on assessing whether current supervisory mandates and powers are effective in addressing greenwashing. This Report aims at providing an overview of the progress made one year since the EC asked the ESAs' advice.

1.2. MANDATE

1.2.1. PROCESS AND PROCEDURE

The mandate⁶ sent by the EC requests EIOPA advice on the areas of greenwashing and its supervision, by way of a progress report to be delivered by end May 2023 and of a final report to be delivered by end May 2024.

While the mandate requests separate progress and final reports, one for each of the ESAs, and that each of the ESAs accurately presents the specificities of the sectors in their remit, the mandate encourages a high level of coordination across the ESAs deliveries. It requests that the ESAs ensure some degree of comparability across their reports and findings, and that the reports are accompanied by a shared summary of key horizontal aspects.

1.2.2. EIOPA'S INTERPRETATION OF THE EUROPEAN COMMISSION MANDATE

EIOPA has interpreted the mandate sent by the EC as covering three main parts, which are also the basis for the structure of this progress Report.

- (i) The first part asks the ESAs to provide input on occurrences, cases and complaints relating to greenwashing, and asks the ESAs to assess the scale and frequency of greenwashing. The ESAs are also asked to assess risks and potential impacts stemming from the occurrence of greenwashing on consumers, on financial institutions, and on financial stability. Based on the occurrences, risks, impacts and complaints studied, the ESAs are asked to provide a common high-level understanding of greenwashing across the sectors, and, where relevant, a definition of greenwashing at sectoral level.
- (ii) The second part relates to the supervision of greenwashing by National Competent Authorities (NCAs). The ESAs are asked to gather supervisory experience in dealing with greenwashing and to identify supervisory practices (techniques, tools, measures taken, data requirements) which are effective at identifying, monitoring and mitigating potential greenwashing risks and

⁶ Request for input to the European Banking Authority (EBA), the European Insurance and Occupational Pensions Authority (EIOPA) and the European Securities and Markets Authority (ESMA) related to greenwashing risks and supervision of sustainable finance policies - [link](#)

potential gaps/challenges, including an assessment of whether the current and forthcoming supervisory mandates, powers, obligations and toolkits are fit to adequately tackle greenwashing and its risks. Input is also sought in relation to the resources dedicated to sustainability-related supervisory tasks. Further, the ESAs are requested to assess the current state of implementation of relevant EU sustainability-related requirements and assess how CAs intend to/are already implementing their supervisory obligations, including enforcement.

- (iii) The third part invites the ESAs to propose improvements to the current regulatory framework, based on observed shortcomings such as inconsistencies, contradictory concepts or definitions and gaps – including in Level 1 legislation. As requested by the CfA, EIOPA did not make any proposals that would imply modifications of the Corporate Sustainability Reporting Directive (CSRD) in this progress report and does not intend to do so in the final report, unless advised otherwise by the EC.

1.3. SCOPE COVERED BY EIOPA

In its advice, EIOPA covers several relevant market segments under its remit and several areas around which potential greenwashing can emerge.

The market segments covered in EIOPA's work are:

- ▶ In the area of retail investments: Insurance-based investment products (IBIPs); Occupational pension schemes; and Pan-European personal pension products.
- ▶ In the area of non-life insurance: Non-life insurance products marketed as having sustainability features and/or characteristics and corporate commitments vis-à-vis adopted underwriting practices.

Greenwashing is a phenomenon that has not yet been fully understood and defined. Therefore, as part of this work EIOPA took two main approaches in defining what greenwashing is, where it can occur and how it can occur:

- ▶ The first approach is an assessment of compliance with and outcomes of relevant sustainability-related regulatory requirements.
- ▶ The second approach is an assessment of possible greenwashing in relation to aspects not covered by existing sustainability-related regulatory requirements but still covered by general transparency and fair treatment requirements. The assessment was conducted with the view of determining whether they are sufficient to ensure that no misleading sustainability claims take place.

2. DEFINING GREENWASHING, ITS RISKS AND ITS IMPACTS

2.1. COMMON HIGH-LEVEL UNDERSTANDING OF GREENWASHING COVERING THE THREE ESAS REMITS

2.1.1. LIMITATIONS OF THE EXISTING DEFINITIONS AND ESAS APPROACH

While the references presented in the EU regulatory framework represent the starting point of the ESA's work on a common high-level understanding of greenwashing, they do not encompass all potential forms of greenwashing under the ESAs' respective remits (see Annex document part 1.2). In particular, the definitions available in the Taxonomy Regulation, the SFDR Delegated Regulation, as well as in amending MiFID II and IDD Delegated Regulations are not deemed sufficient for the following reasons:

- a) These references are focused on the disclosure and advice of financial products, while greenwashing can occur at different stages of the product lifecycle and it can also relate to entity-level rather than only product-level claims and feed into regulatory documents;
- b) The reference to basic environmental standards in the definition provided in recital 11 of the Taxonomy Regulation (as well as in the amendments to MiFID and IDD delegated regulation) is not sufficient, as a product or entity could meet "basic" standards but be misleadingly portrayed as fulfilling higher standards;
- c) While gaining a competitive advantage could be the result of greenwashing practices, it is not an automatic nor a systematic consequence of such phenomenon, and thus, should not be construed as a precondition for greenwashing;
- d) While some of these references do mention greenwashing several existing references do not explicitly define greenwashing in a broad sense as encompassing all environmental, social and governance aspects.

The ESAs' common high-level understanding of greenwashing proposed below seeks to address these limitations.

2.1.2. ESAS COMMON HIGH-LEVEL UNDERSTANDING OF GREENWASHING

The ESAs understand greenwashing as 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.

In addition, the ESAs have identified several core characteristics that help understand the potential scope of greenwashing:

- A. Similarly to communication of other misleading claims there are several ways in which sustainability-related statements, declarations or communications may be misleading. On the one hand, communications can be **misleading due to the omission of information** relevant to consumers, investors or other markets participants' decisions (including but not limited to partial, selective, unclear, unintelligible, vague, oversimplistic, ambiguous or untimely information, unsubstantiated statements). On the other hand, communications can be **misleading due to the actual provision of information**, that is false, deceives or is likely to deceive consumers, investors or other market participants (including but not limited to mislabelling, misclassification, mis-targeted marketing, inconsistent information);
- B. Similarly to other misleading actions, greenwashing is a type of misconduct which may not only result in a direct claim but **in misleading actions or omissions**. Potential examples include identifying clients with sustainability preferences within the positive target market of a product that does not have any sustainability features (in the product design phase) or not taking duly into account clients' sustainability preferences in the advice phase.
- C. Sustainability-related misleading claims can occur and spread **intentionally or unintentionally**, whereby intentionality, negligence, or the lack of robustness and appropriateness of due diligence efforts could, where relevant, constitute aggravating factors in the context of supervisory and enforcement actions.
- D. Greenwashing can occur either **at entity level** (e.g., in relation to an entity's sustainability strategy or performance), **at financial product level** (e.g., in relation to products' sustainability strategy or performance) **or at financial service level** including advice⁷ (e.g., in relation to the integration of sustainability-related preferences to the provision of financial advice).
- E. Greenwashing can occur at any point where sustainability-related statements, declarations, actions or communications are made, including **at different stages of the business cycle of financial products or services** (e.g., manufacturing, delivery, marketing, sales, monitoring) **or of the sustainable finance value chain**.
- F. Greenwashing may occur in relation to the application of specific disclosures required by the **EU sustainable finance regulatory framework** or in relation to general principles – as featured either in the general **EU financial legislation** or more specifically in EU Sustainable Finance legislation. In addition, greenwashing may occur in relation to entities that are **outside of the remit of the EU sustainable finance legislation as it currently stands**.
- G. Greenwashing can be **triggered by the entity to which the sustainability communications relate**, **by the entity responsible for the product**, **by the entity providing advice or information on the product**, or it can be triggered **by third parties** (e.g., ESG rating providers, or third-party verifiers);

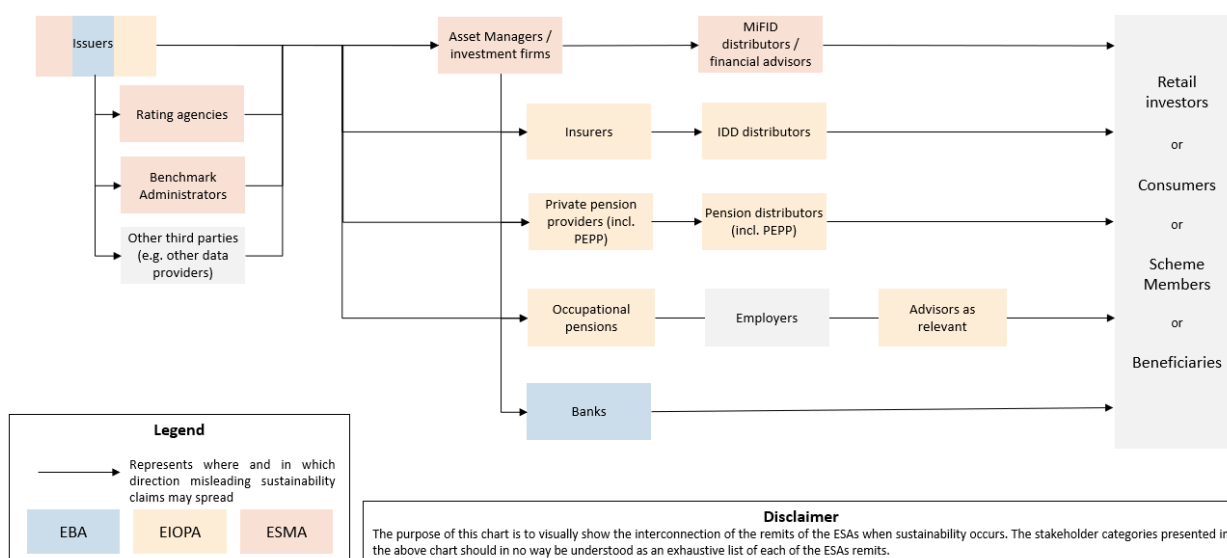
⁷ NB: there may be interdependencies and/or blurred lines between the product's level and the institution's level. For example, one product could be correctly presented as sustainable, but in case the communication around the product would suggest that the whole institution should be regarded as sustainable, greenwashing concerns could arise.

H. Greenwashing may or may not result in immediate **damage to individual consumers or investors** (in particular through mis-selling⁸) or the gain of an unfair competitive advantage. Regardless of such outcomes, if not kept in check, greenwashing undermines trust in sustainable finance markets and policies.

In the context of the summary statement outlined above, “entities” are understood to be financial or non-financial undertakings or intermediaries that manufacture, issue and/or distribute financial products; “financial product or financial service” is used to cover all financial instruments, securities and investments, banking, insurance (this comprises multi-option products, i.e. MOPs, and their investment options including those that do not qualify as financial products), and pension products as well as all financial services relevant for each sector considered; “consumers” encompasses all retail and professional customers/clients of “entities”.

In addition to this joint understanding, the ESAs have also jointly developed a high-level overview of the sustainable finance investment value chain (Figure 1 – slight divergences could be observed in the 3 ESAs progress reports). This to show in summary the interconnectedness across the sectors within each of the ESAs’ remit.

Figure 1 – Sustainable finance investment value chain



Source: ESAs elaboration

⁸ EU regulations do not provide a definition of mis-selling and the concept is generally understood as encompassing different practices such as unauthorised entities providing financial services, authorised entities providing unauthorised products or services and/or authorised financial intermediaries unsuitably selling financial products or services to clients (i.e., not accounting for their actual characteristics and needs). In the case of the greenwashing request for input, we are considering this latter case of market not responding properly to consumers or investors preferences.

2.2. MISLEADING SUSTAINABILITY CLAIMS LEADING TO GREENWASHING

CfA: *“and complement that with more specific sectorial definitions where relevant and necessary.”*

In addition to the considerations outlined in section 2.1, and given insurance and pension providers' role, EIOPA outlines below **'sustainability claims'** that when mis-leading particularly lead to greenwashing.

'Sustainability claims' are claims that state or imply that an entity or product 'benefits' the environment or society. The type of 'benefit' is varied and includes: (a) positively impacting sustainability factors⁹; (b) not impacting sustainability factors; (c) minimizing negative impacts on sustainability factors; (d) minimizing the impact of climate change on society (this includes climate adaptation measures).

This understanding of 'sustainability claims' is consistent with the definition of “environmental claims” as defined in the EC proposed Directive as regards empowering consumers for the green transition¹⁰ which would amend the Unfair Commercial Practices Directive (UCPD)¹¹: *“environmental claim’ means any message or representation [...], which **states or implies that a product or trader has a positive or no impact on the environment or is less damaging to the environment than other products or traders, respectively, or has improved their impact over time**”*. 'Sustainability claims' as understood by EIOPA extends it to also cover social aspects.

2.2.1. EXAMPLES OF MISLEADING 'SUSTAINABILITY CLAIMS'

When determining what is greenwashing and what is not greenwashing, the way the information is presented to consumers needs to be taken into account. Some examples are outlined below:

- ▶ An insurer says it plants trees for every life insurance policy it sells, but it does not plant them.
- ▶ An insurer misleadingly claims to be transitioning its underwriting activities to net zero by 2050, without any credible plans to do so.
- ▶ A product is portrayed as benefiting sustainability factors solely because of a good “ESG rating” which, in this instance, specifically measures whether its financial value would be negatively impacted by the environment or society (i.e., risk), but it does not measure the impact of the product on the environment or society.

⁹ Environmental and social factors

¹⁰ Proposal for a directive of the European Parliament and of the Council amending Directives 2005/29/EC and 2011/83/EU as regards empowering consumers for the green transition through better protection against unfair practices and better information - [Link](#) – Please note this proposed Directive is still under negotiation

¹¹ Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation - [link](#)

2.3. IMPACTS AND RISKS STEMMING FROM GREENWASHING

CfA: “It should also identify and assess risks that greenwashing poses to financial sector entities, investors and consumers.”

Greenwashing in the insurance and pensions sectors has a substantial impact on consumers, on providers as well as on environmental and social factors. Therefore, greenwashing affects the EU’s ability to reach its sustainability targets and undermines the EU’s sustainable finance agenda. Given EIOPA’s role and mandate, this report does not assess the impact which greenwashing has on the environment and people, in this section EIOPA evaluates the impact of greenwashing on the insurance and pension sectors and its consumers.

2.3.1. IMPACT OF GREENWASHING ON CONSUMERS

Misleading sustainability claims can deceive consumers into buying products that are not aligned with their preferences, or into buying products from a pension or insurance provider that misleadingly portrays itself an entity with sustainability credentials. In such cases, consumers’ investments or premiums are re-routed away from sustainability factors.

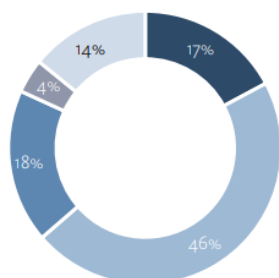
Further, greenwashing occurrences erode consumers’ trust in providers’ ability to positively impact environmental or social factors. While EIOPA has not identified to date any major greenwashing cases in the insurance and pension sectors, because cases emerged in other sectors there may be already a general mistrust from consumers in relation to sustainability claims which can be made by providers. The EU-wide Eurobarometer survey carried out by EIOPA in June 2022 shows that 62% of EU consumers do not trust the sustainability claims made by insurance undertakings or distributors, while a similar percentage (63%) says that sustainability claims about insurance products are often misleading. Consumer representatives in their response to the ESA Joint CfE in January 2023 also reported limited trust in insurers and pension providers sustainability claims.

Additionally, misleading sustainability claims do not allow consumers as well as broader society to hold providers accountable for their environmental and social impact. This unaccountability might embolden providers to make misleading sustainability claims to gain a competitive advantage over other providers, after which these other providers might follow suit to close the competitive advantage, leading to more greenwashing occurrences.

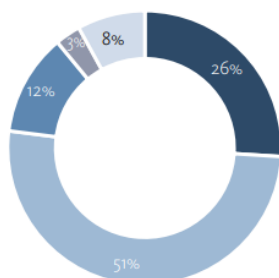
Figure 2 - Consumer's view on their insurance purchasing experience

To what extent do you agree or disagree with the following statements:

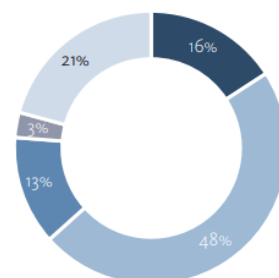
A: I do not trust the sustainability-related (or “green”) claims made by providers/distributors



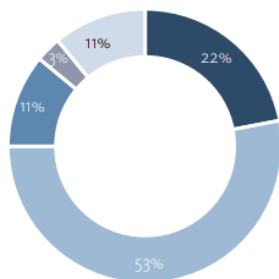
B: I would not know how to verify if an insurance product is indeed sustainable



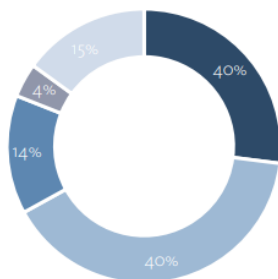
C: Sustainability-related (or “green”) claims about insurance products are often misleading



D: It is difficult to really know if a product is sustainable as the documentation provided is too complex to understand



E: I would file a complaint if I discovered that I was sold a product marketed as sustainable, but that does not meet the requirements to be marketed as such



■ Strongly agree ■ Tend to agree ■ Tend to disagree ■ Strongly disagree ■ Don't know

Source: EIOPA Flash Consumers’ Eurobarometer 2022

As outlined in the EC’s strategy to finance the transition to a sustainable economy¹², consumers can play a key role in the transition, by choosing products with sustainability features. However, greenwashing occurrences increase consumers’ mistrust and therefore make them less prone to invest their money in a sustainable way (life insurance, voluntary pension schemes), purchase sustainable non-life products, or purchase solely products from insurance undertakings with substantiated sustainability credentials, ultimately obstructing the financing of the transition to a sustainable economy.

A broad set of stakeholders recognized in their answer to the ESAs Joint CfE that greenwashing and the derived consumer mistrust is one of the key barriers to the transition. Therefore, it is important to lower consumer mistrust by tackling actual and perceived greenwashing.

2.3.2. INSURANCE AND PENSION PROVIDERS

¹² European Commission’s Strategy for Financing the Transition to a Sustainable Economy - [Link](#)

Greenwashing can also have a substantial impact on insurance and pension providers and gives rise to various risks. These impacts and risks were echoed by respondents to the ESAs Joint CfE, as well as during structured interviews that EIOPA held with stakeholders. Further, all NCAs that responded to EIOPA's questionnaire on greenwashing (29 respondents) believe that the occurrence of greenwashing can lead to risks for insurance and pension providers.

Reputational risk

A provider that makes misleading sustainability claims might suffer significant reputational damage when the general public is informed about the greenwashing occurrence, for example where a whistle-blower or a press release alerts consumers and society to the greenwashing occurrence.

Where consumers are aware that a provider is greenwashing, consumers might want to sever ties with the provider by redeeming their investments, for example, in the case of investments through IBIPs (e.g., surrender), or by changing their non-life insurance provider (e.g., non-renewal). Further, any prospective consumer might stop considering that provider for its investments or non-life insurance products. The brand of the provider would find itself significantly damaged as the provider would lose credibility on sustainability topics with consumers.

For an insurance undertaking, this reputational damage could also lead to financial damage, as it could hinder the providers' profitability and solvency position. As consumers may surrender their products *en masse* following greenwashing allegations, the insurance undertaking might not be able to cover all redemptions, for example due to a lack of liquidity. This would also impact its business model as new premiums collected and fees/costs levied could decrease. Further, existing customers might pursue legal actions against providers to seek damages. Other stakeholders, such as non-governmental organizations, might also pursue legal action against providers or engage in public 'name-and-shame' techniques, further hurting the provider's reputation.

This risk may also lead to broader sectoral implications as some providers may do "greenhushing", i.e., to not make genuine sustainability claims as they may be associated with providers pursuing mis-conduct.

If the insurance undertaking is publicly traded, its shares might see a substantial reduction in value (e.g., as investors take into account potential legal risks premium), ultimately impacting the insurance undertaking's ability to raise capital. Its credit profile would also be impacted with potentially higher interest rate loans, weakening its balance sheet.

Financial stability consideration

More globally, when a greenwashing occurrence is known in the public space it is not only the single provider triggering the greenwashing occurrence that is affected, but also other providers in the sector. Indeed, as highlighted in the section above, consumers may surrender their products *en*

masse following greenwashing allegations, or might redeem their money from voluntary pension schemes. In such cases, insurance or pension providers might not be able to cover all redemptions, for example due to a lack of liquidity. Additionally, consumers will be less prone to invest sustainably, impacting the levels of premiums and fees/costs levied of other providers.

Therefore, where there is a loss of consumer's trust due to a greenwashing scandal, there could be financial stability implications.

[EIOPA plans on developing this section further for the final report]

Regulatory risk

Another risk that could impact providers is related to non-compliance with sustainability requirements as well as general consumer protection rules such as the need for providers to be fair, clear, and not misleading in their sustainability claims. Whether identified through supervisory activities or by way of whistle blowers, potential cases of greenwashing will be looked at closely by competent supervisory and regulatory authorities in the EU.

Therefore, in case of a potential occurrence of greenwashing, the provider will be under increased supervisory scrutiny or might be put under investigation by the relevant authorities. Where appropriate and in line with the relevant legislation, potential greenwashing cases could result in sanctions or in product intervention measures (e.g., recital 55 of the Taxonomy Regulation "*National Competent Authorities and the ESAs should exercise the product intervention powers laid down in Regulations (EU) No 600/2014, (EU) No 1286/2014 and (EU) 2019/1238 of the European Parliament and of the Council also with respect to mis-selling practices or misleading disclosures of sustainability-related information, including the information required under this Regulation*").

Liability insurance risks:

Greenwashing occurrences can also impact – through higher claims - insurance providers with liability insurance business lines, e.g., general liability, professional indemnity and directors and officers liability.

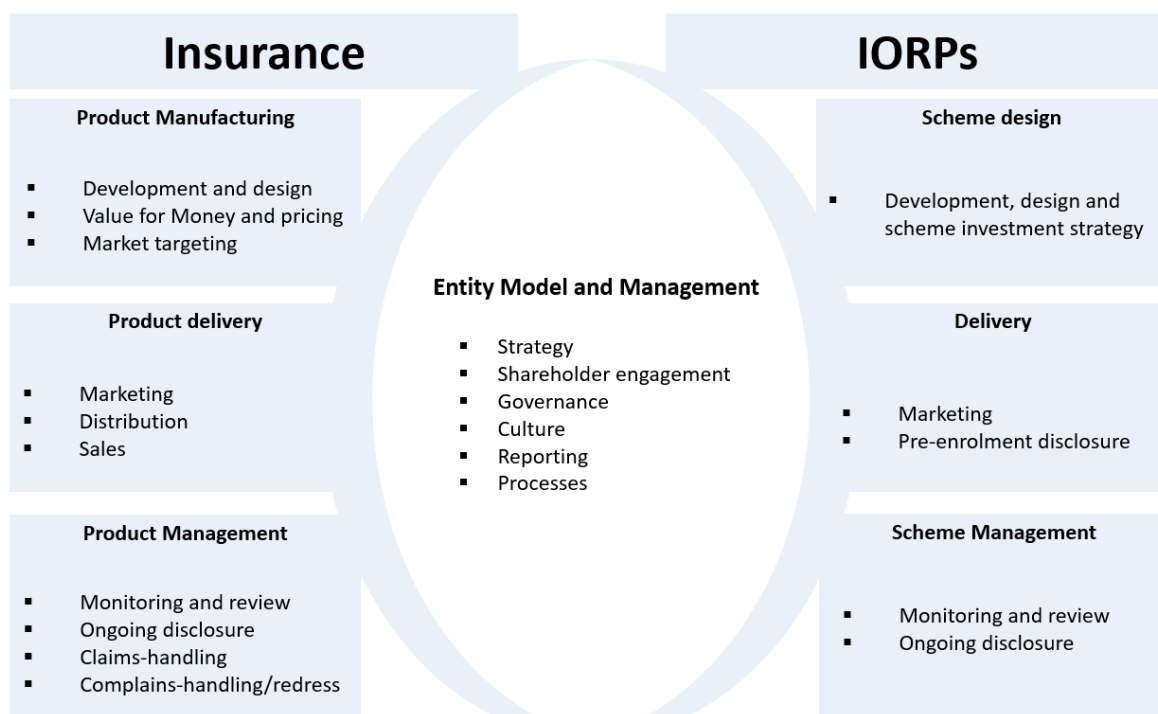
3. WHERE AND HOW GREENWASHING OCCURS IN THE INSURANCE AND PENSION SECTORS

3.1. GREENWASHING IN THE INSURANCE AND PENSIONS LIFECYCLE

CfA: “Greenwashing is a complex and multifaceted issue. It can occur at different stages of the financial value chain, such as at the sale or marketing of financial products. It can also occur at company level where an undertaking or a financial institution makes false or unsubstantiated sustainability claims about its products, activities or policies.”

Greenwashing can manifest – to varying extents – as part of the broader set of conduct risks at all stages of the insurance and pensions lifecycle (Figure 3).

Figure 3 – Insurance and pensions lifecycle chart

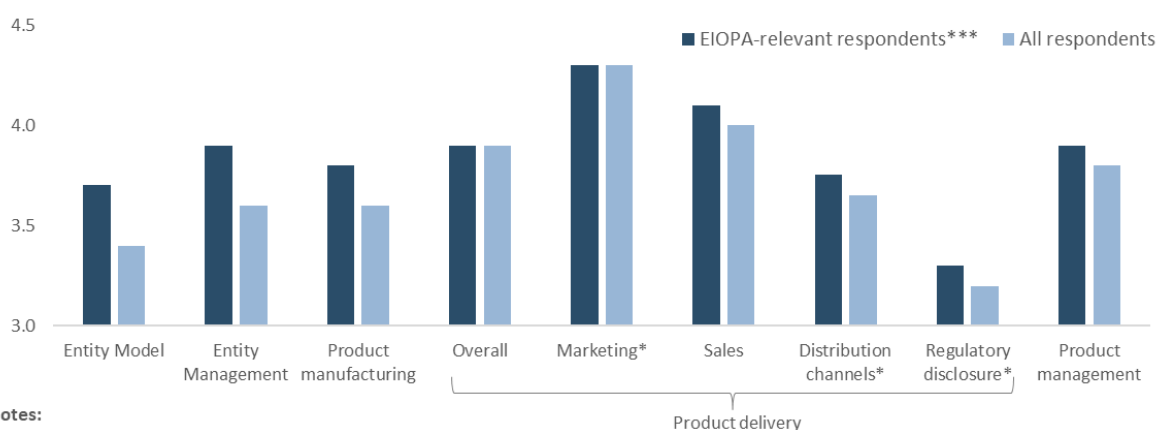


Source: EIOPA’s own elaboration

At entity level, greenwashing can occur in relation to the entity model (section 3.1.1) and management (section 3.1.2 below) stages of an insurance or pension provider. At product level,

greenwashing can occur at the manufacturing stage in relation to the way products are developed by insurance and pensions providers prior to being delivered and for IORPs the way schemes are designed prior to the enrolment stage (section 3.1.3). Still at product level, greenwashing can also occur at the delivery stage – enrolment stage for IORPs (section 3.1.4). Finally, still at product level, greenwashing can occur at the product or scheme management stage (section 3.1.5). In relation to the stages of the insurance and pensions lifecycle, respondents to the ESA Joint CfE provided views on the likelihood of the occurrence of greenwashing (Figure 4).

Figure 4 – Likelihood of greenwashing in the different stages of the insurance and pensions lifecycle as rated by respondents of the ESAs Joint CfE**



Notes:

- * These delivery sub-stages also apply to product manufacturers.
- ** Scoring was from 0 to 5, the latter being the highest.
- *** These are stakeholders that replied to EIOPA's section of the CfE, and other relevant stakeholders in the insurance and pension sectors.

Source: ESAs Joint CfE

Like other conduct risks, greenwashing can occur at multiple stages of the insurance and pension lifecycle, with greenwashing occurring at one stage possibly leading to greenwashing emerging at another stage. For example, a corporate culture which may be based on using sustainability claims to gain competitive advantages can result into the exaggeration of the sustainability credentials of products when they are manufactured – e.g., manufacturing of the disclosures documents – or when they are delivered.

There are several ways in which claims can be misleading and, thus, be conducive to greenwashing. Therefore, the term “misleading” is understood in this report as an umbrella term that covers selective disclosure, empty claims, omission, lack of disclosure, vagueness, lack of clarity, inconsistency, lack of meaningful comparisons, unsubstantiated underlying assumptions, misleading imagery, irrelevance, outdated information, and falsehoods. This list is not exhaustive and can differ based on the stage of the insurance and pension lifecycle that is being considered.

Examples and occurrences that have been identified are included in the relevant sub-section to show how greenwashing can occur in practice. Examples included in this section have been either identified by EIOPA as part of its market monitoring activities, reported by NCAs or reported by stakeholders in the ESAs Joint CfE. These are just practical examples of concrete cases which may lead to possible greenwashing; however, it is important to note no clear conclusions have been drawn as to whether such examples definitively constitute or not greenwashing.

3.1.1. ENTITY MODEL

3.1.1.1. Investment strategy

Insurance and pension providers are large institutional investors, and as such define an investment strategy, which sets out their investment goals and ambitions as well as how they intend on reaching them (this covers equity and debt financing). In defining and implementing their investment strategy, providers can claim that they consider the impact of their investments on the environment and society. They do so by highlighting the sustainability credentials of their investment activities through various channels such as annual reports, climate reports, press releases, advertisements, social media, and others.

Sustainability claims regarding investment activities can relate to the general account (for insurers) as well as consumers' and IORP scheme members investments (e.g., unit-linked products, pension schemes) and are varied. For example, some providers note that they no longer invest and/or divested from certain sectors (e.g., tobacco), that they integrate human rights considerations in their investment activities or that they set out a set of exclusion criteria for certain investments (e.g., coal and mining companies, oil, deforestation, controversial weapons). Providers also note their focus on supporting companies in their path towards more sustainable business models (e.g., less carbon-intensive), for example via transition bonds, but also by actively engaging with management of their investee companies (e.g., around transition plans).

This increase in sustainability claims related to the investment activities of insurance and pension providers could lead to potential greenwashing when these claims are misleading. Indeed, some providers might be tempted to portray their investment activities as more sustainable than they are to attract sustainability-minded consumers and gain an unfair competitive advantage over rivals. They might do so through claims that exaggerate their sustainability credentials, or through sustainability claims without sufficient substantiation. Further particularly in relation to non-standardized mandatory disclosures, such as advertisements, entities might use misleading or suggestive non-textual imagery (e.g., colour green, blue or other, without prejudice to the well-established use of brand colours).

Regulatory requirements have been introduced to increase transparency and prevent mis-leading claims in this area. Namely, Article 4 of the SFDR requires that financial market participants and

financial advisors under its remit (e.g., IBIPs manufacturers and distributors, pension funds, PEPP providers) publish on their website if they consider principal adverse impacts (PAI) of investment decisions on sustainability factors, along with a statement on their due diligence policies with respect to those impacts where they do, or an explanation as to why they do not. Where they consider the PAI of investment decision (mandatory consideration if the provider has over 500 employees), if provider omits to disclose its statement or discloses data that is not accurate (e.g., understating the value of GHG emissions of its investments) greenwashing occurs.

Box 1 – Example of potential greenwashing

An insurer declared that it would plant a tree for every new life insurance policy subscribed. At the same time, this insurer still invests in companies that are developing new fossil fuels projects. According to the stakeholder that provided this example, potential consumers might be misled into believing that buying an insurance policy with this insurer would be to contribute positively to the environment, while this insurer invests in fossil fuels projects.

Outsourcing of investments by IORPs

IORPs' Boards might integrate sustainability impact considerations in their investments. Given that many IORPs outsource their investment activities to external parties (e.g., asset managers), their Boards would outsource this integration to an external party.

Greenwashing could occur in the design phase of a new investment strategy where the external party does not integrate sustainability impact considerations to the level expected by the IORP Board. This is particularly true where the Board does not have the ability or fails to assess properly whether the new investment strategy is indeed incorporating sustainability considerations to an adequate level. Here the external party would trigger the greenwashing occurrence while the IORP Board would spread the greenwashing occurrence to its members.

Greenwashing could also occur where an IORP Board delegates the implementation of the investment strategy to an external party. If there is one or more schemes in the IORP greenwashing could occur in case the investments selected by the external party are not incorporating sustainability considerations in line with the mandate given by the Board.

Box 2 - Example of potential greenwashing

A stakeholder saw potential greenwashing in relation to entity level commitments. It found contradictory that some pension providers have signed a public agreement on responsible investments while at the same time state that they do not consider the adverse impacts of their investment decisions under SFDR.

3.1.1.2. Shareholder engagement

Through their investments in companies, insurance and pension providers can play an active role in the general direction of the business model and activities of their investee companies. Where relevant and possible, insurance and pension providers could therefore steer their investee companies – particularly those in economic sectors impacting negatively social factors – towards business model and activities that positively affect sustainability factors or minimize their negative impact on them (e.g., collaborative shareholder engagement). This shareholder engagements can occur in different ways, for example by voting in the shareholder assembly, or by engaging with the senior management of investee companies.

48% of respondents to the Joint ESAs' CfE said that an insurance or pension provider that claims it is improving environmental and social factors via its investments but does not use its consequential voting rights in its investee companies to push these companies to become more sustainable, is greenwashing (23% said they did not believe this would amount to greenwashing, while 29% did not know). This shows the need for providers to ensure that their sustainability claims about their investment strategy remain consistent with their shareholder engagements. The 23% of stakeholders that assess this situation not to be greenwashing said that in some cases the context might not allow to vote for more sustainability-oriented actions.

Beyond the need for consistency, greenwashing could also relate to misleading claims about shareholder engagement. For instance, by setting out engagement policies about sustainability that are not adequately implemented. Another example could be when a provider claims that it is steering some of its investee companies towards less carbon intensive business models, but in reality, it is not. Some respondents to the ESAs Joint CfE noted that shareholder engagement claims should be followed by adequate and genuine engagement activities including dialogue processes and escalation strategies. Other respondents to the ESAs Joint CfE are also of the view that a robust shareholder engagement policy should include public descriptions of requests made to investee companies (i.e., to the management of the company).

EIOPA recognizes the importance for shareholder engagement in the transition to a more sustainable economy and believes that insurance and pension providers have a crucial role to play in making economic actors more sustainable. In doing so, it is important that claims are adequately substantiated, and that the context in which the provider is making them is clear.

3.1.1.3. Underwriting activities (only applicable to insurance undertakings)

Given insurance undertakings' role as risk-managers, they are also increasingly communicating about the sustainability credentials of their underwriting activities. To do so they use similar channels than for their investment activities (e.g., annual reports, climate reports, press releases, advertisements, social media).

Similar than for the investment side, some undertakings have introduced exclusions in their underwriting activities, for example by not providing ‘Property and Construction’ cover for certain types of polluting activities (e.g., coal mines, fracking). Some of these self-imposed restrictions also target corporate clients that breach a certain threshold set by the insurer (e.g., in relation to GHG emissions) or that are in sectors deemed by the insurer as not sustainable. Undertakings implementing these self-imposed restrictions noted making some exceptions for corporates that they assess as having clearly and adequately substantiated transition plans.

While these initiatives taken by insurance undertakings (i.e., restrictions, exclusions on investment, underwriting risk) are a crucial step towards the transition to a sustainable economy, they might not always be adequately substantiated, for example through adequate disclosures on targets and criteria or through adequate internal and external checks that exclusions are actually implemented. In some cases, they could therefore be used by some undertakings to portray themselves as more sustainable than they actually are; hence, leading to potential greenwashing.

Regulatory requirements have been introduced to increase transparency and prevent mis-leading claims in relation to underwriting activities. Namely, the Taxonomy Regulation Article 8 – and as further specified by Article 6 of DR 2021/2178¹³ – requires the reporting of a Key Performance Indicator measuring the taxonomy-alignment of an insurance undertaking’s underwriting activities.

Box 3 – Example of potential greenwashing

An insurance undertaking outlines its sustainability credentials publicly by running a television advertisement highlighting the increasingly sustainability-oriented behaviour of its clients, or by communicating about a philanthropic fund dedicated to sustainability factors, while continuing to underwrite risk for large companies developing new oil and gas fields as well as new fossil fuel infrastructure. The mismatch at entity level between the way the insurer is portraying itself and its clients publicly – i.e., conscious of sustainability aspects – and its underwriting activities – i.e., underwriting in fossil fuels – could constitute a potential greenwashing practice.

3.1.1.4. Net Zero commitments

Providers are increasingly making commitments around the transition of their underwriting (for insurance undertakings) and investment activities towards Net Zero and using such commitments as sustainability credentials. Two welcomed UN convened initiatives are the Net Zero Insurance Alliance (NZIA) and Net Zero Asset Owner Alliance (NZAOA). The first, NZIA, is a commitment by various insurers to transition their insurance and reinsurance underwriting portfolios to net-zero greenhouse gas (GHG) emissions by 2050. The second, NZAOA is a commitment by various

¹³ Commission Delegated Regulation (EU) 2021/2178 of 6 July 2021 supplementing Regulation (EU) 2020/852 of the European Parliament and of the Council by specifying the content and presentation of information to be disclosed by undertakings subject to Articles 19a or 29a of Directive 2013/34/EU concerning environmentally sustainable economic activities, and specifying the methodology to comply with that disclosure obligation - [link](#)

institutional investors (including insurance and pension providers) to transition their investment portfolios to net-zero GHG emissions by 2050.

EIOPA recognizes the importance of these initiatives for the transition to a sustainable economy, particularly for insurers which act both as institutional investors and as risk managers. However, given the long-term nature of these commitments, insurers should adequately substantiate them for example by having – in the short-term – credible plans and targets to achieve these commitments, and by implementing these plans in a timely manner.

3.1.2. ENTITY MANAGEMENT

3.1.2.1. Governance, competence and remuneration

Competence

Sound competence of the Board and senior management of insurance and pension providers allows the adequate steer and governance of their activities. Sustainability aspects are increasingly becoming relevant for providers' activities. Therefore, providers might make claims about their Board's or Senior Management's competence on sustainability. A respondent to the ESAs CfE reported that greenwashing could occur where a provider puts someone – often with little to no sustainability experience – within their existing managerial structures in charge of sustainability issues, often rebranding these positions by adding “ESG,” “sustainability,” “climate,” or “environment” to a person's existing job title. The respondent also highlighted greenwashing could occur when senior sustainability positions are created with the objective of mostly managing interactions with external stakeholders, rather than to monitor the impact of the entities' activities on sustainability factors.

Employees' competence on sustainability is also important, particularly for employees that manufacture or distribute products. It is important they have sufficient expertise on sustainability to avoid greenwashing in other stages of the insurance and pension lifecycle, namely, in the product manufacturing stage (see section 3.1.3) and the product delivery stage (see section 3.1.4).

Remuneration:

Incentives or remuneration are particularly relevant since they can incentivise – if poorly designed – or deter the wrong type of employee behaviour. For example, when remuneration is based on short-term financial metrics there is more likelihood that sustainability aspects are overlooked even though they may be advertised. Another instance of potential greenwashing is where remuneration is linked to climate targets that are very easy to achieve and do not have a meaningful impact to reduce emissions. Sustainability targets set out in the remuneration policy should be significant, measurable, transparent, and linked to the overall strategy of the entity.

Committee and oversight structure

Many insurance undertakings are creating sustainable finance committees to deal with sustainable finance topics across their organization. Where the oversight and steer of these committees are not adequate, greenwashing could occur. For example, an insurance undertaking might claim that it is preventing greenwashing through the oversight of its sustainable finance committee, however this committee only assesses sustainability risk (i.e., impact of sustainability factors on the financial performance of the provider) but does not assess the sustainability impact of the entity's activities.

3.1.2.2. Culture

Culture refers to the values and behaviours that drive and influence how employees – managers and non-managers – think and act. Poor culture could lead to greenwashing. Some providers might be guided by a “culture of profit” or concerned with “what sells the most” and therefore might be tempted to make misleading sustainability claims about themselves or about their products, to attract increasingly sustainability-minded consumers. Poor culture can be reflected at the providers level when the provider portrays itself as more sustainable than it is, but it can also be reflected at employee level where some employees might make misleading claims about their own sustainability competence or their products sustainability features.

To mitigate greenwashing at this stage, there is need to instil a culture where greenwashing risk is seen as relevant and where the providers' internal structure is appropriately designed with roles and responsibilities around greenwashing.

3.1.2.3. Reporting and processes

Regulatory reporting

Regulatory reporting by insurance and pension providers around sustainability aspects has recently grown. Under the SFDR they must report on their consideration of principal adverse impact at entity level, and on the sustainability features – if any – of their IBIPs, pension schemes and pension products at product level. Under the Taxonomy Regulation, insurers must show the taxonomy alignment of their activities by reporting key performance indicators covering their non-life underwriting activities as well as their investment activities. Under the CSRD, insurers will also have to report in detail on the impact of their activities on sustainability factors.

In their sustainability reporting, providers should apply the same level of rigor than they do to financial reporting, as highlighted by some respondents to the ESAs Joint CfE. Not doing so, might lead to misleading claims being made in sustainability reporting, non-compliance with regulatory requirements, and ultimately to greenwashing.

Box 4 - Example of potential greenwashing

One stakeholder noted that some providers find the calculation of the Principal Adverse Impact indicators unclear, which in turn might lead to potential greenwashing. This point is further elaborated in section 5.1 of this report.

Reliance on third party reporting

Insurance and pensions providers rely to some extent on data provided by third parties to fulfil their sustainability reporting obligations. For example, in relation to the SFDR Principal Adverse Impact indicators reporting, providers will have to rely on their investee companies reporting. Particularly smaller insurance and pension providers might not be able to assess the adequacy of their investee companies reporting. In case greenwashing occurs at the level of the third-party, this means that insurance or pension provider using that data might spread greenwashing to its consumers or scheme members. A system of assurance and audit to ensure adequacy of the third-party data could mitigate greenwashing at this stage. To further limit the spread of greenwashing, it is important that insurance and pension providers put in place the necessary due diligence to verify data stemming from third parties, taking into account the need for proportionality.

Reliance on third party ratings

Insurance and pension providers can also rely on third parties for sustainability ratings. There can be cases where the rating methodologies of certain rating companies do not adequately consider the impact of the entity/product on sustainability factors or do not take it into account at all, however providers might use such ratings to portray themselves or their investments in companies with good ratings as having sustainability credentials. Indeed, ratings often measure sustainability risks rather than sustainability impact, as noted by a document published in August 2022 by Harvard law school forum on Corporate Governance¹⁴.

Further, there is no clear consensus on sustainability ratings methodology, therefore providers might select the third-party ratings that portray them the most as having more sustainability credentials. Exemplifying these concerns is a study published on the CFA institute blog in august 2021¹⁵, which shows the low correlation between the different ESG ratings companies¹⁶.

Box 5 - Example of potential greenwashing

There is a misleading practice whereby some entities or products are qualified as “ESG compliant” or “sustainability leaders” by third party rating providers solely because they would not be affected financially in case of a flood or a natural catastrophe (i.e., sustainability risk). This situation constitutes potential greenwashing when it used to mislead or it misleads consumers/retail

¹⁴ ESG ratings: A compass without direction - [link](#)

¹⁵ ESG ratings: Navigating through the haze | CFA Institute Enterprising Investor - [link](#)

¹⁶ EIOPA chair voices concerns over ESG ratings, hints at need for regulation - [link](#)

investors into believing that they are investing in a provider or product that is benefiting the environment or society.

Reliance on non-regulatory labels

Non-regulatory labels might also be conducive to greenwashing. For example, some providers might use such labels to portray themselves as green or sustainable. However, non-regulatory labels might not have an adequate methodology to assess sustainability impact, nor adequately disclose the awarding criteria of the label to entities. Hence, consumers might be misled by such labels, leading to potential greenwashing.

Box 6 - Example of potential greenwashing

A stakeholder noticed the unsubstantiated use of ESG labels as marketing arguments by some insurance undertakings. For example, some providers claimed offering a majority of ESG labelled investment options, without providing a detailed list of funds which have been awarded that specific label. This could mislead consumers into believing that if they invest their money with this insurance undertaking, they would do so sustainably no matter the investment option chosen.

3.1.3. PRODUCT MANUFACTURING / SCHEME DESIGN

At this stage, greenwashing could arise from the way manufacturers develops products (e.g., IBIP, PEPP) and relevant disclosures prior to them being marketed to whom they are targeted. While this include some considerations in relation to the manufacturing of standardized mandatory disclosures, disclosures related aspects are covered in more details in section 3.1.4.

3.1.3.1. Development and design

Strategic fit and expertise

In the developments of new products, greenwashing could arise in case the manufacturer does not consider the broad and strategic fit in relation to whether new products are aligned with the providers' sustainability strategy or with the providers level of sustainability expertise (Product oversight and governance Delegated Regulation – POG DR¹⁷). Indeed, a lack of strategic fit with the entity's sustainability strategy might lead to conflicting statements or inconsistencies on sustainability. For instance, an insurance undertaking might manufacture a product with sustainability features, however the undertaking noted in various entity level communications that it did not intend to market products with sustainability features. Another example would be an insurance undertaking that is eager to manufacture products with sustainability features, but that

¹⁷ Commission Delegated Regulation (EU) 2017/2358 of 21 September 2017 supplementing Directive (EU) 2016/97 of the European Parliament and of the Council with regard to product oversight and governance requirements for insurance undertakings and insurance distributors - [link](#)

does not have the expertise to manufacture such products, resulting in products that might not be aligned with the target market's preferences.

Consumer biases:

Greenwashing could occur when products are designed to deliberately take advantage of demand side biases. Given the high consumer interest in the EU for products with sustainability features, providers might want to include some level of sustainability in their product manufacturing that can then be mentioned in the sales process. A provider might do so by exploiting certain behavioural biases. For instance, it may identify that consumers associate certain colours (e.g., green or blue) or images with sustainability aspects and may use them in the relevant product documents to take advantage of that consumer bias. Similarly, it may use certain words in products' names to make consumers think the product is more sustainable than it is.

3.1.3.2. Value for money and pricing

As part of value for money considerations, consumers wanting to invest in sustainable way are likely looking for "(sustainability) impact for money". Consumers might prefer products that will provide them with the ability to benefit the environment or society. Manufacturers may over emphasize the positive impact a product has on the environment or society leading to potential greenwashing. Greenwashing could also occur because it may be difficult to fully understand and measure the sustainability value created by products, leading to a possible over emphasis on the products' sustainability features compared to other product features.

3.1.3.3. Target Market

If a manufacturer identifies the wrong target market for a product, it may lead to greenwashing. It is therefore important that a manufacturer has a sound process around the identification of the target market to ensure that sustainability-related objectives of the target market are considered and match the sustainability profile of the insurance product. This to avoid potential greenwashing occurrences where a manufacturer designs and markets an insurance product not compatible with sustainability-related objectives of the target market (POG DR).

Greenwashing could also occur in case the provider does not sufficiently and adequately test a product and/or brings it to the market despite the product not being aligned with the target market's sustainability-related objectives. Indeed, where providers fail to ensure that the product addresses – over its lifetime – the target market's sustainability-related objectives through appropriate testing, greenwashing might occur (POG DR).

3.1.3.4. Standardized mandatory disclosures by the manufacturer

Under SFDR, insurance undertakings selling IBIPs, IORPs and PEPP providers must disclose pre-contractually and periodically on the sustainability features of their products (in case the product

promotes environmental and/or social characteristics disclosure in line with Article 8 SFDR – in case the product has a sustainable investment objective disclosure in line with Article 9 SFDR). Where the SFDR disclosure is mis-leading, incomplete, or missing, greenwashing could occur.

In addition to SFDR disclosures, greenwashing can occur in the remaining parts of the documents to which the SFDR disclosures are annexed, this is the Solvency II¹⁸ disclosure or of the pre-enrolment information for IOPR Members, the Pension Benefit Statement¹⁹, the PEPP Benefit Statement and PEPP KID²⁰. Greenwashing could equally occur in other disclosures, such as annual reports, the insurance-product information document (IPID) and the PRIIPs KID²¹. In case disclosure about the sustainability profile of these products is mis-leading, greenwashing could occur.

Box 7 – Example of potential greenwashing

Some stakeholders referred to greenwashing in Multi-Option Products (MOP) (see section 5.1 for further considerations). In their view the requirements for MOPs to disclose under Article 8 SFDR if they have only one investment option could lead to greenwashing when the disclosure of the MOP presents the whole product as promoting environmental or social characteristics.

Box 8 - Example of potential greenwashing

An NCA conducted research on the implementation of the SFDR requirements by insurance undertakings (IBIPs) and IORPs. Its investigation concluded that sustainability information is not clear enough which hinders consumers' understanding and its own supervisory tasks, as well as leads to greenwashing. Indeed, one of their findings is that insurance undertakings generally do not give information on sustainability-related investments at the product level, but only at the level of the underlying funds, which limits the overall understandability of the sustainability-related investments made by the IBIP.

Box 9 - Example of potential greenwashing

EIOPA conducted a review of SFDR pre-contractual product disclosure based on a sample of 180 IBIPs and funds sold via IBIPs. It has found practices that lead to potential greenwashing, some are listed below:

- ▶ Difficulty in finding SFDR information related to IBIPs' investment options;
- ▶ Non-applicable sections to certain products are kept in the disclosure, making it unnecessarily long (e.g., where no specific index has been designated as a reference benchmark);

¹⁸ Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) - [link](#)

¹⁹ Directive (EU) 2016/2341 of the European Parliament and of the Council of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision (IORPs) - [link](#)

²⁰ Regulation (EU) 2019/1238 of the European Parliament and of the Council of 20 June 2019 on a pan-European Personal Pension Product (PEPP) - [link](#)

²¹ Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs) - [link](#)

- ▶ In some cases, there was the addition of graphs that are not graphs set out in the SFDR DR 1288/2022 template, in other cases graphs set out in the SFDR DR were omitted (e.g., taxonomy-alignment graphs);
- ▶ Some Article 9 products made 0% commitments of sustainable investments;
- ▶ Excessive use of the colour green or other colours that could potentially mislead consumers in the SFDR disclosure;

3.1.4. DELIVERY

3.1.4.1. Marketing

Delivering a product includes the development and implementation of a promotional strategy. Indeed, product providers might be tempted to create a promotional strategy portraying a product as more sustainable than it is. Stakeholders that responded to the CfE rated the marketing sub-stage (e.g., advertisement, non-regulatory disclosures) as the sub-stage with the highest risk of greenwashing within the delivery phase, with a score of 4.3 out of 5 (Figure 4).

Terminology

Distributors or insurance undertakings might intend to promote the sustainability profile of a product by using sustainability-related words in their product name. In this context, EIOPA carried out an analysis of sustainability-related wording used by unit-linked or with profit products, based on Solvency II reporting template S.14.01. As of Q4 2021, it found that 452 unique products held sustainability-related wording in their name (as reported in the optional column C0120). These products accounted for a total of 1.5 million contracts and a total written premium of 4 billion EUR. (see Annex document part 1.1. or more information on the methodology). Given that the product name column C0120 is optional and it is free text – i.e., insurance undertakings do not have to report the specific name – in S.14.01 it is likely that more unit-linked, hybrid and with profit participation products than those that have been captured in this analysis, have sustainability-related words in their names. Where these sustainability-named products do not have sustainability features consistent with their name, greenwashing could occur. Indeed, consumers could be misled into thinking that a certain product positively impacts sustainability factors because of its name, whereas the product does not.

Beyond the naming of a product, greenwashing could occur in the naming of an investment option offered by an insurance product, i.e., in the case of a fund offered by a Multi-Option Product (MOP). Based on Solvency II reporting template S.06.02, EIOPA carried out an analysis of sustainability-related wording used in the name of assets held in unit-linked contracts. As of Q4 2021, it found that unit-linked products held 69 billion EUR in investment options that have sustainability-related wording, out of which 64 billion EUR (93%) were Collective Investment Undertakings (CIUs) (see Annex document 1.1 for more information on the methodology). Similarly to the naming of a

product, where these sustainability-named investment options do not have sustainability features consistent with their name, greenwashing could occur.

In addition to the naming of a product or of a product's investment option, providers might also excessively use sustainability-related wording in product's advertisement or other disclosures. By doing this the provider might portray its product as more sustainable than it really is, ultimately misleading consumers.

Box 10 - Example of potential greenwashing provided

In some instances, undertakings use strong “green/sustainable” words (e.g., naming investment options “Sustainable development impact”) and arguments to promote the investment options of some insurance products without SFDR references or disclosure.

Non-textual imagery

To the extent that a lot of advertising is visual, greenwashing could also occur in relation to the way in which a product is visually portrayed. For example, a provider might post on social media an advertisement with a green visual showing trees with claims that its products will reduce the effects of deforestation, whereas that is not true.

Box 11 - Example of potential greenwashing

A stakeholder reported that some Article 8 SFDR investment options of an insurance product are visually paired with a certain number of the UN sustainable development goals. Consumers could be misled into believing that these investment options are sustainable investments (i.e., SFDR Article 9) as they make investments in line with UN sustainable development goals.

3.1.4.2. Selection of distribution channels

Distribution channels are a key aspect of how products reach consumers. Where the selection of the distribution channel is not adequately carried out, greenwashing might occur. For example, where an investment product with sustainability features is sold fully via digital means without any advice, there might be the risk that the consumer does not understand whether the sustainability features of the product match their preferences, and therefore lead to greenwashing. Another example is a non-life insurance product with sustainability features that is sold via a distributor that has no sustainability expertise. Similarly, if insurance undertakings do not adequately select their distribution channels considering the channel's knowledge and ability to understand product with sustainability features, greenwashing could occur.

Box 12 - Example of potential greenwashing

An NCA reviewed insurance product level pre-contractual information (e.g., KIDs) as well as the content of advertisements for insurance products. In that context, the NCA identified a social media

advertisement for a life insurance product which argued that the product contributes to the protection of the marine ecosystem and reduction of plastic and was accompanied by sustainability-related visual elements. Upon assessing this claim as misleading, the NCA asked for the advertisement campaign to cease.

3.1.4.3. Sales

Information asymmetry or misleading information/disclosure

Information asymmetry arises from the imbalance of power, information and resources between consumers and providers, often placing customers at a disadvantage. Given that distributors (and advisors) have better knowledge of the sustainability profile of the products they sell than consumers and consumers place a certain degree of trust in the salesperson, consumers might be easily misled in relation to the sustainability features of the products they are being advised on. Therefore, where distributors do not provide fair personalized advice as well as adequate, clear and timely sustainability-related disclosure regarding products or services being sold, greenwashing might occur. For example, a distributor that cherry picks the information disclosed to consumers, by mentioning only positive sustainability information and omitting any negative sustainability information about the product, could lead to greenwashing.

Unsuitable product due to poor advice

Greenwashing can occur when a distributor fails to properly assess the suitability of a certain product for a consumer with sustainability preferences. Under the IDD, distributors must perform a suitability assessment, for advised sales, when making recommendations about IBIPs. In doing so they must consider – among other things – consumers sustainability preferences and recommend products that match those preferences. Failing that, greenwashing could occur. For example, when no IBIP meets the sustainability preferences of a customer, the consumer does not adapt their preference and the advisor still recommends one of the products in his portfolio to the consumer.

Incentives at the point of sale (see point 3.1.2.1 under business management)

Incentives at the point of sale can lead to greenwashing. Indeed, distributors might be tempted to recommend products that would give them a higher commission, even if they do not meet consumers' sustainability preferences.

Distributors' training

A lack of training for distributors related to products' sustainability features as well as general sustainable finance requirements could be conducive to greenwashing. As distributors might not be able to properly assess the sustainability features of certain products or would be unable to match these sustainability features to consumer sustainability preferences.

3.1.4.4. Mandatory standardized disclosures by the distributor

Under SFDR, advisors (e.g., insurance intermediaries selling IBIPs) when advising on products with sustainability features, should provide specific pre-contractual disclosures to consumers on the sustainability features of the product (i.e., Article 8 or 9 SFDR). Where the SFDR disclosure is not provided or is provided but not adequately explained, greenwashing could occur.

In addition to SFDR disclosures, distributors are required to provide a number of other mandatory disclosures such as the IPID and the PRIIPs and PEPP KID. In case communications in relation to these disclosures about the sustainability profile of these products are mis-leading greenwashing could occur. For example, a distributor can focus on certain aspects contained in the disclosures which may lead to them to over-emphasize sustainability aspects and/or omit other aspects.

In the CfE, while stakeholders noted that greenwashing could occur in relation to the provision of regulatory disclosures, in comparison to other aspects (e.g., advertisement), regulatory disclosure was found to be less prone to greenwashing with 3.2 out of 5 (Figure 4).

Box 13 - Example of potential greenwashing

Despite the fact that SFDR information should be “*published in a way that is accurate, fair, clear, not misleading, simple and concise and in a prominent easily accessible area of the website*”²², an NCA highlighted difficulties to access SFDR information on undertakings websites, and particularly information on the different types of investment options offered by certain IBIPs (e.g., some IBIPs do not have a list of investment options with their SFDR classification), impacting potential consumers understanding.

3.1.5. PRODUCT/SCHEME MANAGEMENT

3.1.5.1. Product monitoring and review

Considering how products are working in practice and if they still match the sustainability preferences of consumers even after the sale, is key to ensure that no greenwashing occurs. Indeed, if there is a change in the product’s sustainability features, it should be ensured that these features remain consistent with the sustainability preferences of the target market (POG DR) or there might be risks of greenwashing. Where there is the requirement to carry out a periodic assessment of the product’s suitability (e.g., for some IBIPs), greenwashing might occur if the provider does not collect information on potential changes of consumers’ sustainability preferences.

In cases of an inconsistency between the consumer’s sustainability preferences and the product sustainability features, both due to a change in preferences by the consumer or a change in the

²² Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability-related disclosures in the financial services sector (Text with EEA relevance) - [link](#)

product’s features, greenwashing could occur if the distributor does not inform the consumer of this inconsistency and does not offer a remedial to this inconsistency (EIOPA guidance on the integration of sustainability preferences in the advice process²³).

Even if the insurance undertakings had originally carried out all the necessary due diligence to determine the product’s sustainability features, greenwashing could occur when, throughout the lifetime of a product, it emerges that the product no longer has sustainability features, but the insurance undertaking does not review the product and/or the relevant disclosure material.

Box 14 – Example of potential greenwashing

Various stakeholders reported that a substantial amount of Article 9 SFDR funds were “downgraded” or “re-classified” as Article 8 SFDR funds. Some of these funds might have been offered as investment options in IBIPs. Therefore, some consumers might have selected these Article 9 funds as investment options. Given that the classification of these investment options changed to Article 8 SFDR, the investment options chosen by these consumers no longer match their sustainability preferences. Where remedial options were not offered, potential greenwashing could occur.

3.1.5.2. Ongoing regulatory disclosures

Under SFDR insurance undertakings selling IBIPs, insurance intermediaries selling IBIPs, IORPs and PEPP providers should provide specific periodic disclosures to consumers on the sustainability features of the product (i.e., Article 8 or 9 SFDR). Where the SFDR disclosure is not provided or it is provided but not in an adequate way (e.g., disclosure contains mistakes) greenwashing could occur. Beyond SFDR disclosure, in case communications in relation to other periodic regulatory disclosures on the sustainability profile of these products are mis-leading, greenwashing could occur.

3.1.5.3. Claims management

Claims management could result in potential greenwashing where an insurance undertaking misleadingly states that its claims management process is “sustainable” or “green”. For example, when a claim relates to the replacement of a car part which is part of a motor policy, the undertaking states that, when possible, it uses second-hand car parts or encourages the repair of damaged parts instead of acquiring new ones, whereas this is not true.

3.2. EXAMPLES AND CASE STUDIES OF POTENTIAL GREENWASHING

3.2.1. EXAMPLES RECEIVED IN THE CFE

²³ Guidance on the integration of the customer's sustainability preferences in the suitability assessment under IDD - [link](#)

In the ESAs Joint CfE, stakeholders provided examples of what in their view could constitute potential greenwashing practices. EIOPA found the examples relevant to the insurance and/or pension sectors allow for a better understanding of the various ways in which a potential greenwashing practice can occur. To show in practice how greenwashing occurs, EIOPA included these examples in section 3.1 on the insurance and pension's lifecycle. Further EIOPA found that a significant number of examples of potential greenwashing practices relate to greenwashing at the fund level. While the ISINs of the different funds were in the vast majority of cases not shared, there is a high likelihood that some of these funds have been repackaged into IBIPs. EIOPA will investigate this potential source of greenwashing and plans on including further considerations in this respect in the May 2024 final report.

3.2.2. CASE STUDIES

[EIOPA plans on developing some case studies that will be included in the final report, to show how greenwashing can spread to and from the insurance and pensions sectors]

4. TACKLING GREENWASHING

4.1. SUPERVISING GREENWASHING: INITIAL CONSIDERATIONS

Another area in which the Call for Advice seeks input is related to the supervision of greenwashing risks. Supervising the risk of greenwashing and ensuring compliance with the relevant sustainable finance requirements is necessary to prevent and mitigate greenwashing as well as to prevent consumer detriment in the insurance and pensions sectors. Conscious of this, EIOPA and its Members (National Competent Authorities) have started to integrate greenwashing risk in their supervisory activities.

4.1.1. SUPERVISORY CAPACITIES

CfA: “The reports should also provide an overview and assessment of the current supervisory resources and expertise of financial supervisors in capturing, fighting and preventing greenwashing in the financial market based on their existing or forthcoming legal mandates. [...] This could include basic quantitative estimation of resources/FTEs that are dedicated to sustainability-related supervisory tasks to then allow for a conclusion on resources and capacity related to the various tasks across Member States.”

As of February 2023 (see Figure 5) NCAs reported having a total of 22 full-time equivalents (FTEs) solely dedicated to sustainability-related supervisory tasks in the insurance and pension sector while a total of 89 FTEs looks at sustainability-related aspects when monitoring other requirements – in line with EIOPA’s view that greenwashing emerges in relation to existing conduct risks.

Figure 5 – FTEs dedicated to sustainability-related supervisory tasks, February 2023

	Solely related to that	This among other activities (e.g., marketing monitoring, supervision of PRIIPs KID, POG and IDD supervision)
Total FTEs dedicated to sustainability-related supervisory tasks	22	89
FTEs on supervision of sustainability related disclosure requirements	15	73
FTEs on supervision of sustainability related IDD requirements for insurance undertakings	3	15

FTEs on supervision of sustainability related IDD requirements for insurance distributors	3	16
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Source: Survey to NCAs

As the number of products with sustainability features grows and sustainable finance requirements fully come into force, NCAs will also gradually increase their headcount dedicated to sustainability-related supervisory tasks. They are planning to do so by 11 FTEs in 2023 and by 7 FTEs in 2024, for a total of around 40 FTEs by end 2024 (see Figure 6). Noticeably most of the current and planned FTEs are allocated to supervising disclosure requirements (i.e., 22 FTEs).

Figure 6 – 2023 and 2024 planned increase in FTEs dedicated to sustainability-related supervisory tasks, February 2023

	2023	2024
Total FTEs dedicated to sustainability-related supervisory tasks	11	7
FTEs on supervision of sustainability related disclosure requirements	7	4
FTEs on supervision of sustainability related IDD requirements for insurance undertakings:	2	1
FTEs on supervision of sustainability related IDD requirements for insurance distributors	2	2

Source: Survey to NCAs

Beyond their specific headcount on sustainable finance related activities, NCAs were asked whether they believe having sufficient resources and expertise to tackle greenwashing: 10 NCAs believe having sufficient resources and expertise to tackle greenwashing, 17 NCAs believe not having sufficient resources and expertise to tackle greenwashing, 2 NCAs did not provide a view as to whether they believe having sufficient resources and expertise to tackle greenwashing (see Annex document 1.3.1 for further details).

4.1.2. SUPERVISORY PRACTICES AND EXPERIENCES

4.1.2.1. Occurrences of greenwashing identified by NCAs

CfA: “For the purpose of this request, the ESAs are requested to assess the scale of potential greenwashing and how frequently it occurs in the market. For this purpose, the ESAs are requested

to, where possible, collect information on the most frequent greenwashing occurrences and complaints.”.

EIOPA collected input on whether NCAs had identified occurrences of greenwashing in their markets as presented in Section 3.

3 NCAs have identified one or more occurrence of greenwashing in their market. These relate to both insurance and pension sectors. All 3 NCAs noted that the greenwashing they identified related to product level greenwashing, while only one NCA noted that the greenwashing they identified also related to entity level greenwashing. Further all 3 NCAs noted that the greenwashing they identified occurred within the current sustainable finance regulatory framework. **5 NCAs have not identified greenwashing cases but are currently investigating potential occurrences of greenwashing.**

21 NCAs have not identified occurrences of greenwashing due to various reasons:

- ▶ 11 out of 21 NCAs pointed to the fact that the relevant sustainable finance requirements are new/not fully into force yet so there have been limited supervisory activities on the topic. One NCA noted that it intends to carry out a detailed investigation in the close future, given the recent entry into force of standardized disclosure requirements under SFDR²⁴. Two other NCAs would welcome a clear definition of greenwashing before carrying out supervisory activities.
- ▶ 10 out of 21 NCAs noted that this was because there were little to no products with sustainability features offered in their market. Two other NCAs noted the low greenwashing risk that resulted from their risk assessment process and therefore have not undertaken more extensive supervisory activities on the topic.
- ▶ 4 out of 21 NCAs noted that due to limited resources there were limited supervisory activities on this area.
- ▶ 3 out of 21 NCAs pointed to the inadequacy of the current sustainable finance framework at tackling greenwashing. One NCA noted that due to the lack of clear requirements, they were unable to classify shortcomings in entity-level disclosures as greenwashing.
- ▶ 6 out of 21 NCAs provided additional reasons for why they had not identified greenwashing. One NCA noted that no greenwashing was happening in its market. Another NCA noted that it is in the process of developing its approach to tackle greenwashing but has not implemented it yet. One NCA noted that supply of products with sustainability features is high, but that demands remains low, limiting in the NCA’s view the risk of greenwashing. Another NCA pointed

²⁴ Commission Delegated Regulation (EU) 2022/1288 of 6 April 2022 supplementing Regulation (EU) 2019/2088 of the European Parliament and of the Council with regard to regulatory technical standards specifying the details of the content and presentation of the information in relation to the principle of ‘do no significant harm’, specifying the content, methodologies and presentation of information in relation to sustainability indicators and adverse sustainability impacts, and the content and presentation of the information in relation to the promotion of environmental or social characteristics and sustainable investment objectives in pre-contractual documents, on websites and in periodic reports - [link](#)

the fact that SFDR product templates were only introduced recently before which it was more difficult to identify greenwashing practices at product level.

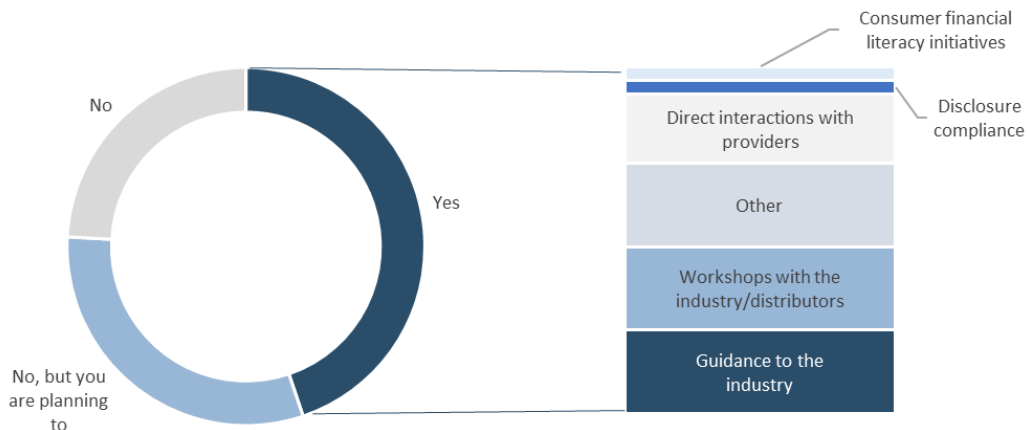
4.1.2.2. Preventing, identifying, monitoring, and investigating greenwashing

CfA: “The reports should provide an overview and assessment of the most relevant supervisory practices and tools competent authorities are developing or have developed to define, capture and address greenwashing cases and greenwashing risks within their remit. To complement this, the experience and early lessons learned of supervisors to deal with greenwashing should be assessed, as well as the challenges supervisors face in this respect.”

Overview of NCAs activities around greenwashing:

Taking a preventative approach to greenwashing and stopping it before it occurs is an important action that supervisory authorities can take in their tackling of greenwashing.

Figure 7 – NCAs that carried out supervisory activities aimed at preventing greenwashing – February 2023



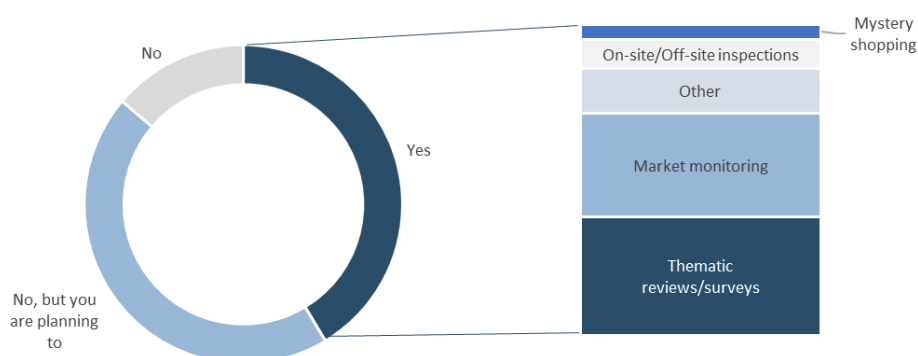
Source: Survey to NCAs

13 NCAs have carried out supervisory activities aimed at preventing greenwashing and its risks. 6 NCAs reported giving guidance to the industry. The same number reported carrying workshops with them, while 5 NCAs noted holding direct interactions with the industry. One NCA noted carrying out regulatory compliance disclosure checks before entry into force of requirements, and another noted carrying out consumer financial literacy initiatives. Out of the 13 NCAs that carried out supervisory activities aimed at preventing greenwashing, 9 of them did so for both the pension and insurance sectors, while 3 NCAs did so exclusively for the insurance sector and 1 NCA did so exclusively for the pension sector.

Another 9 NCAs have not carried out supervisory activities aimed at preventing greenwashing and its risks but are planning to. An additional 7 NCAs have not carried out supervisory activities aimed at preventing greenwashing and its risks and are not planning to do so.

While greenwashing can to some extent be prevented, occurrences of greenwashing can materialize. Therefore, the identification, mitigation and investigation of potential greenwashing occurrences is important in the tackling of greenwashing.

Figure 8 – NCAs that carried out supervisory activities aimed at identifying, monitoring, and investigating greenwashing – February 2023



Source: Survey to NCAs

12 NCAs have carried out supervisory activities aimed at identifying, mitigating, and investigating greenwashing and its risks. 8 NCAs reported carrying out thematic reviews and/or surveys, 6 NCAs reported carrying out market monitoring activities, 2 NCAs carried out On-site/Off-site inspections, and 1 NCA reported carrying out a mystery shopping exercise. Out of the 11 NCAs that carried out supervisory activities aimed at identifying, mitigating, and investigating greenwashing, 5 of them did so for both the pension and insurance sectors, while 3 NCAs did so exclusively for the insurance sector and 2 NCAs did so exclusively for the pension sector.

13 NCAs have not carried out supervisory activities aimed at preventing greenwashing and its risks but are planning to. 4 NCAs have not carried out supervisory activities aimed at preventing greenwashing and its risks and are not planning to do so.

Main takeaways from NCAs’ activities on greenwashing (see Annex document 1.3.2 for a detailed looked at NCAs activities):

- ▶ Some NCAs prioritised dialogue with the industry and offered guidance to it, for example through roundtable discussions, by issuing “Dear CEO” letters, by setting out supervisory expectations, and by issuing other external communication. Other NCAs carried out more investigative work such as surveys, compliance checks.

- ▶ Some NCAs noted that the industry had questions and concerns in relation to the regulatory framework (e.g., clear definition of greenwashing missing, data related issues, disclosure-related questions, conflicting concepts under SFDR and TR, sequencing issues). Two NCAs found divergences among undertakings in how they disclosed products' investment options, as well as data availability issues.
- ▶ Some NCAs noticed that SFDR information is not always easily accessible on the undertakings' websites.
- ▶ An NCA that recurrently reviews life insurance advertising noted an increase in the number of communications with extra-financial arguments (e.g., environmental aspects) since 2019.
- ▶ Some NCAs noted that entities in their market are making efforts to implement the requirements properly but have encountered some challenges (e.g., due to legal uncertainties, lack of definitions and quantitative criteria). A few have also found that some entities in their market, avoid claiming that their products sustainability characteristics (Article 8) or have a sustainable investment objective (Article 9) to avoid repercussions (e.g., legal risks).

Challenges encountered by NCAs in their supervisory activities:

NCAs also encountered challenges in the carrying out of supervisory activities aimed at tackling greenwashing.

- ▶ Four NCAs noted that the assessment of whether insurance products are indeed sustainable is challenging due to the unclear, inconsistent, and changing regulatory framework. They also pointed to a lack of comparable and decision-useful data to classify/label products as “sustainable”.
- ▶ Another NCA noted that the divergent interpretation of sustainable finance regulatory requirements, the lack of consistency of the terminology used has led to challenges for their supervisory activities.
- ▶ Another NCA noted the limited resources and lack of specific methodology/internal guidance on how to detect/collect information on greenwashing occurrences, as its main challenge in carrying out supervisory activities aimed at preventing greenwashing.
- ▶ Another NCA performed a thematic review on insurers' entity-level SFDR disclosures and found that disclosures were unclear/vague, however due to the lack of clear requirements, the NCA found it challenging to clearly classify these shortcomings as greenwashing.

Analysis of sustainability information in the occupational pensions sector:

The Dutch NCA (Autoriteit Financiële Markten – AFM) surveyed²⁵ the entire Dutch occupational sector and found that, while most pension providers had made the required legal documents available on their websites, sustainability information could still be improved in various ways. First,

²⁵ Key points AFM report on pension funds and premium pension institutions - [link](#)

the information at fund and scheme level was often unnecessarily long, complex, and technical. Second, the information was often not concrete or specific. This makes it difficult for the average saver/beneficiary to understand how their contributions are invested, or to understand which choices pension providers make about responsible or sustainable investing. Evidence that could underpin sustainability claims was often lacking, in some cases to the degree that the information could be considered as misleading beneficiaries. One example of potentially misleading information is pension providers that while being signatories to covenants about responsible investing make use of the exemption under SFDR Art. 4(1)(b), which means they do not have to consider PAI. Moreover, pension providers often did not clearly distinguish between sustainability risk management versus striving for a positive impact. Instead, they often report that sustainable investing diminishes sustainability risks while improving returns, without specifying how that relates specifically to their investment portfolio.

4.1.2.3. Examples of NCAs supervisory practices and tools

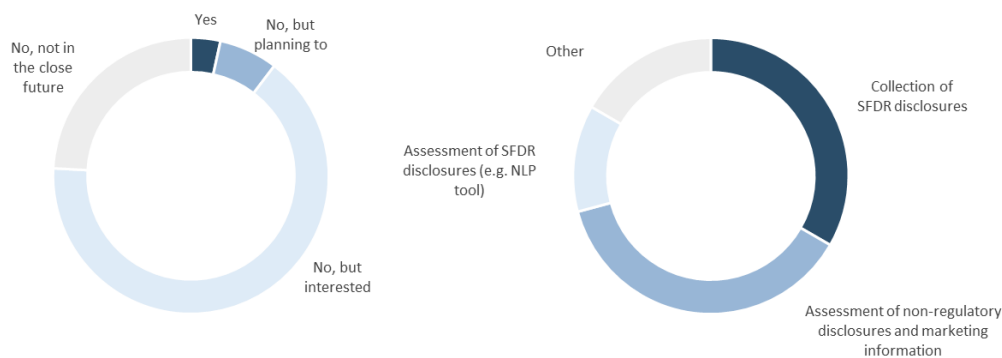
CfA: *“The overview should include existing or planned practices related to techniques and tools used or which may be used for the identification of greenwashing”*

Use of Suptech in tackling greenwashing

Supervisory technologies or “Suptech” has been increasingly used by supervisors in their activities. Suptech solutions could also be used in the tackling of greenwashing. For example, a Suptech tool could check regulatory disclosures to ensure compliance with requirements, or a tool could do text-analysis for advertisements to check for potential greenwashing. While a Suptech tool would not be able to assess if a claim is 100% greenwashing, it could be a time-saving way to do a first screening and focus supervisory scrutiny on areas that the tool flags as potential greenwashing. For example, a tool might assess that 30 out of 10,000 SFDR disclosures might be non-compliant, which would in turn allow supervisors to focus their activities on those 30 disclosures.

While most NCAs do not have any Suptech solution to tackle greenwashing and is not currently planning any (25 NCAs), **most NCAs see value in a Suptech tool to tackle greenwashing (21 NCAs)**. Indeed as 1 NCA reported already having a Suptech tool, 2 NCAs reported planning to implement one, and 19 NCAs noted that they would be interested in implementing one in the future. Only 7 NCAs noted not foreseeing the use of Suptech solutions to tackle greenwashing. In 2024, EIOPA, within the context of a technical support project promoted by the European Commission – DG REFORM, will assist 4 NCAs in developing Suptech tools and guidance to identify greenwashing.

Figure 9 – NCAs using or planning to use Suptech tools to tackle greenwashing



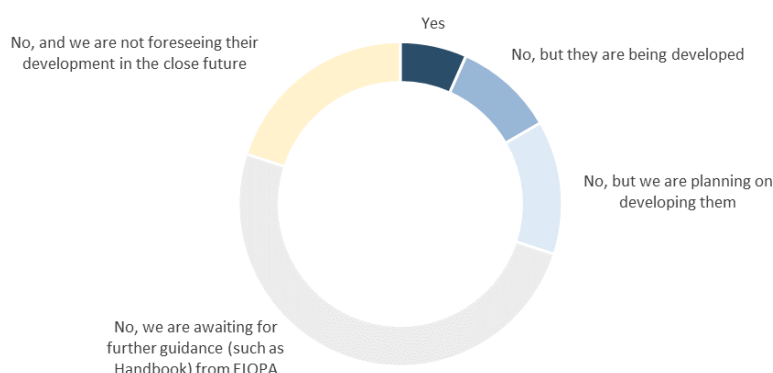
Source: Survey to NCAs

The NCA that already uses Suptech to monitor greenwashing noted having a database with all approved financial products SFDR documentation, thanks to which it is able to have an overview on the sustainability features of these products. Another NCA reported recently launching an IT-project aimed at collecting, storing, analysing and presenting sustainability-related data, based on entities SFDR disclosures. Yet another NCA noted looking into the use of Natural Language Processing to assess SFDR compliance.

Internal guidance for supervisory teams to tackle greenwashing

Guidance or handbooks for supervisory teams help ensuring adequate supervision of greenwashing. **2 NCAs already have guidance related to the tackling of greenwashing for their supervisory teams.** One of these NCAs has developed internal expertise in the detection of greenwashing particularly within product documentation, and plans on developing a work program tailored to inspection teams in their assessment of IDD sustainability-related requirements and greenwashing. The other NCA has integrated greenwashing considerations in its supervisory toolbox. **8 NCAs have started developing or are planning in developing internal guidance on how to tackle greenwashing for their supervisory teams.** An NCA noted it was working on an internal handbook covering all supervisory activities related to conduct of business and include greenwashing considerations. Another NCA noted planning the development of a tool to assess the sustainability profile of certain financial products. Yet another NCA is developing internal guidelines to supervise sustainability-related disclosures. **15 NCAs are waiting for further guidance in relation to the supervision of greenwashing from EIOPA as well as the other ESAs,** for example in the form of a handbook. 6 NCAs noted not foreseeing the development of such guidance in the future. Two of these NCAs noted resource constraints.

Figure 10 – NCAs’ internal guidance/guidelines on how to tackle greenwashing



Source: Survey to NCAs

Monitoring of greenwashing in advertisement

Some NCAs have also started monitoring greenwashing beyond the compliance with EU sustainability-related requirements. The French Prudential Supervision and Resolution Authority (ACPR) has been performing continuous compliance monitoring of advertisements in life insurance, to ensure that information provided to consumers is clear, accurate and non-misleading. The NCA uses external providers to collect a high number of communications across different media on the market, in order to analyse the reliability of the collected ads based on various indicators (e.g., main arguments, keywords, illustrations...).

ACPR witnessed a rise of sustainable finance as a key theme in life insurance advertising since 2019: the share of advertisements including such arguments increased from 8% in 2019 to 20% in 2022, out of yearly analysed volumes of approximately 1000 advertisements. In terms of content, the NCA observed that these communications often lack clarity and use overly positive messages, which could mislead consumers about the promoted sustainability characteristics. This analysis attested a potentially high risk of greenwashing, which led ACPR to publish a first set of guidelines recommending good practices on the matter (see Annex document part 1.3.3. for details about the content of the guidelines). ACPR's guidelines will be enforced from April 2023 and may be subject to further refining upon market practices observed and future evolutions of European and national regulation²⁶.

4.1.3. SUPERVISORY MEASURES AND ENFORCEMENT

[Given the fact that sustainability-related requirements are still coming into force, EIOPA intends on covering this section for the final report by looking at early, if any, supervisory measures or enforcement measures taken by NCAs]

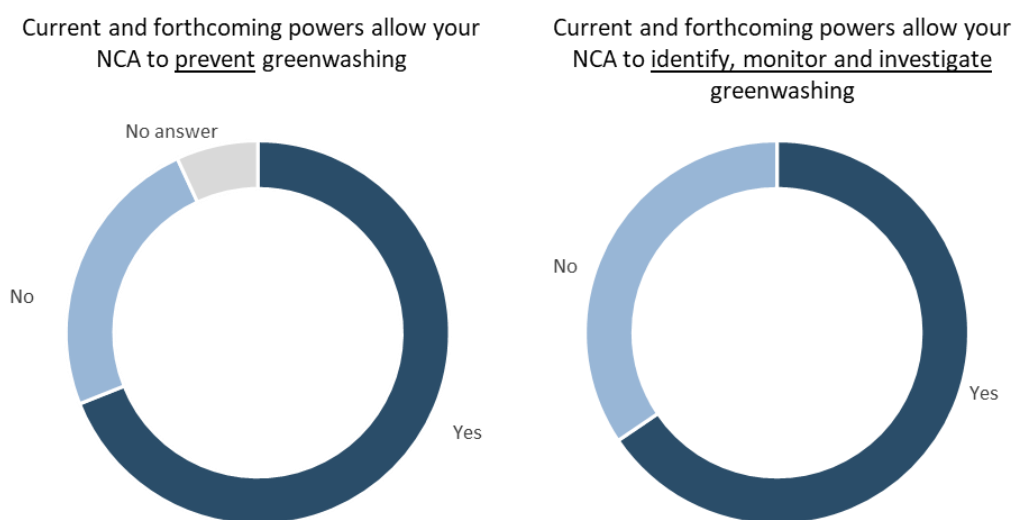
²⁶ ACPR - Recommandation 2022-R-02 du 14 décembre 2022 sur la promotion de caractéristiques extra-financières dans les communications à caractère publicitaire en assurance vie - [link](#)

4.1.4. SUPERVISORY POWERS

CfA: “The ESAs are requested to assess whether the current and forthcoming supervisory mandates and toolkits of CAs are fit to identify, prevent, investigate, sanction and remediate possible greenwashing and address greenwashing risks throughout the investment chain and financial product lifecycle and enforcing European legislation aimed at preventing greenwashing”.

As of February 2023, most NCAs reported believing that the current and forthcoming supervisory mandates, powers, obligations and toolkits allow them to sufficiently prevent, identify, monitor and investigate greenwashing and its risks (Figure 11).

Figure 11 – NCAs’ views on whether current and forthcoming supervisory powers allow them to tackle greenwashing (in number of NCAs), February 2023



Source: Survey to NCAs

6 NCAs reported not believing that the current and forthcoming supervisory mandates, powers, obligations and toolkits **allow them to sufficiently prevent greenwashing and its risks**, while two did not express a view. **9 NCAs reported not believing** that the current and forthcoming supervisory mandates, powers, obligations and toolkits **allow them to sufficiently identify, monitor and investigate greenwashing and its risks**.

- ▶ Two NCA noted that while there is a legal framework to take action against greenwashing, it is unclear whether the current supervisory framework allows the prevention of greenwashing.

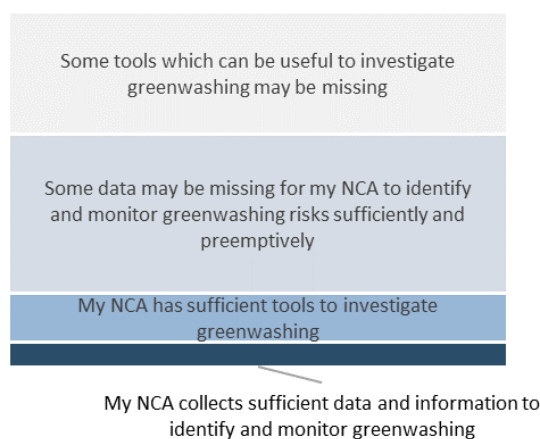
One of these NCAs is currently assessing whether the supervisory framework enables sufficient prevention of greenwashing and its risks.

- ▶ Two other NCAs noted that there was no legal definition of greenwashing. An NCA said that it has no outright mandate to prevent and sanction greenwashing practices in all public disclosures, but only in certain types of disclosures (e.g., SFDR).
- ▶ One NCA stated that while mandates and powers may be sufficient to tackle greenwashing, the necessary methodology and toolkit are still lacking. In its view tackling greenwashing requires an adaptive approach given the ever-changing nature of greenwashing.
- ▶ One NCA does not check products in relation to sustainability aspects before they are brought to market as the NCA does not find it to be an effective supervisory strategy, therefore they see little room for prevention and prefer to focus their supervisory attention on signals that greenwashing may have occurred.

20 NCAs reported believing that the current and forthcoming supervisory mandates, powers, obligations and toolkits allow them to sufficiently **prevent greenwashing** and its risks. **19 NCAs reported believing** that the current and forthcoming supervisory mandates, powers, obligations and toolkits allow them to sufficiently **identify, monitor and investigate greenwashing** and its risks.

- ▶ While 9 NCAs consider that regulatory mandates allow them to address greenwashing, they believe that adequate competencies, practices and toolkits need to be developed in order to adequately tackle greenwashing (e.g., two NCAs requested further guidance from EIOPA on greenwashing, as well as guidelines or trainings).
- ▶ Another NCA noted that clearer regulation and guidance in terms of defining greenwashing, as well as additional tools such as Suptech tools to measure, monitor and analyse greenwashing would allow it to better engage with stakeholders and better supervise greenwashing.
- ▶ Another NCA noted that powers and obligations of the NCAs with respect to the tackling of greenwashing seem sufficient at the moment, with the only legal provision missing being the definition of greenwashing.
- ▶ While another NCA noted having sufficient obligations and powers, it is uncertain about whether their toolkit (current and forthcoming regulatory framework) is sufficient to prevent, identify, monitor and investigate greenwashing and its risks.
- ▶ While one NCA believes to have sufficient resources and competences to prevent greenwashing and its risks, it noted some challenges such (e.g., sustainable finance regulatory framework is not fully in place yet and is unclear, the sector is facing a lack of available data and the supervisory toolkit is incomplete).

Figure 12 – NCAs' views on current and forthcoming supervisory powers (in number of NCAs), February 2023



Source: Survey to NCAs

When describing the current situation of their NCAs in relation to the supervision of greenwashing, 23 NCAs noted either that (i) some data may be missing for my NCA to identify and monitor greenwashing risks sufficiently and pre-emptively, or (ii) that some tools which can be useful to investigate greenwashing risks may be missing (please see Annex document 1.3.3. for more details).

4.2. MARKET’S SET-UP TO PREVENT, MONITOR, IDENTIFY AND MITIGATE GREENWASHING

4.2.1. SUPPLY SIDE: INSURANCE AND PENSION PROVIDERS’ SET-UP TO TACKLE GREENWASHING

As partly 2.3.2 outlined, greenwashing can have an important impact on insurance or pension providers. It is therefore in their interest and their consumer’s interest to ensure that their sustainability claims do not lead to greenwashing. EIOPA surveyed pension and insurance providers through the Joint ESAs CfE to better understand their set-up to prevent greenwashing from emerging or spreading at their level.

7 CfE respondents that are insurance or pension providers²⁷ reported having a governance process to prevent and monitor greenwashing in their institution (e.g., sustainable finance committee), while 4 noted not having one yet but planning to have one soon and 6 noted not having any. One respondent that reported having a governance process, noted having a committee performing second-level control (consistency checks) of the commercial documents provided by the manufacturer. Two stakeholders have a governance process for any advertisement (e.g., legal and

²⁷ In this section “CfE respondents” are only insurance or pension providers that responded to the CfE

compliance departments sign off) to ensure they comply with requirements and reducing the risk of greenwashing. At entity level, respondents also reported having a structure of committees ensuring that greenwashing risk is prevented and monitored. Two other stakeholders highlighted that they are planning to incorporate the mitigation of greenwashing risks in their current sustainability-related controls/programs.

Beyond the governance, some insurance and pension providers have internal tools that allow the monitoring of greenwashing. 6 CfE respondents reported having a governance process to prevent and monitor greenwashing in their institution (e.g., sustainable finance committee), while 3 noted not having one yet but planning to have one soon and 6 noted not having any. Of those that have or are planning to have internal tools that allow the monitoring of greenwashing, 6 noted it related to insurance and 4 noted it related to pensions. One provider has a tool monitoring consistency of portfolios with internal guidelines and principles on sustainable investment, ESG evaluation, exclusion lists, controversial sectors, PAI. Another provider plans to implement a checklist/tool designed to address both EU sustainability regulation as well product classification outside the EU based on its internally developed standards. This checklist's intention is to provide clear guidance on naming, composition, and governance requirements for products to be classified and marketed, in order to avoid greenwashing.

4.2.2. DEMAND SIDE: CONSUMERS' UNDERSTANDING OF SUSTAINABILITY ASPECTS AS A TOOL AGAINST GREENWASHING

As seen in section 2.3.1, consumers are usually at the receiving end greenwashing, so it is important to understand how to prevent consumers from being greenwashed. This starts with providers not making any misleading sustainability claims, as well as with NCAs and ESAs ensuring that consumers are protected against misleading sustainability claims.

However, beyond supervisory aspects there is also a need to empower consumers in their ability to avoid being greenwashed when the market fails, and misleading sustainability claims are made. This entails consumers being able to verify the sustainability credentials of a product or entity.

Adequate consumer-facing disclosure is paramount in that respect. According to the June 2022 EU-wide Eurobarometer survey 75% of EU consumers agreed that it was difficult to really know if a product is sustainable as the documentation provided is too complex to understand (Figure 2). It is important to note that this survey was conducted before the entry into force of the SFDR Delegate Regulation introducing the disclosure templates for Article 8 or 9 SFDR products at product level, and the disclosure of principal adverse impacts at entity level (January 2023). Still, clear and understandable disclosure related to sustainability features of a product or sustainability profile of an entity are very important for consumers' understanding. In this context, the simplification of the product templates carried out by the ESAs under the Regulatory Technical Standard (RTS) on PAI

indicators (and that is currently under public consultation) can assist in ensuring consumers better understand sustainability related disclosures. There are two main simplification changes that were introduced in this RTS. The first is the introduction of dashboards which allows the reader to get, in a visual way, the key sustainability-related information about a product. The second relates to the simplification of the wording in the template to be more understandable for consumers.

Financial literacy initiatives, particularly aimed at educating consumers on the different sustainability features that products could also better equip consumers to not be misled by greenwashed claims.

5. REGULATORY FRAMEWORK

5.1. KEY ISSUES ALREADY IDENTIFIED IN THE REGULATORY FRAMEWORK

CfA: The ESAs are invited to provide, as part of the technical advice, insight on areas of improvement for the current regulatory framework, based on observed and experienced potential shortcomings (mishaps, inconsistencies, conflicting concepts or definitions, gaps, etc.), including in Level 1 legislation.

The current EU regulatory framework provides an initial basis for tackling greenwashing. However, EIOPA received a considerable amount of feedback from its various data-gathering exercises (e.g., Survey to NCAs, ESAs Joint Call for Evidence, structured meetings with stakeholders) in relation to shortcomings in the current EU regulatory framework. In this section EIOPA provides a list of these shortcomings (this list should not be understood as being exhaustive) which will be the basis of EIOPA's recommendations on the regulatory framework that will be outlined in the final report (May 2024).

A. “Sustainable investment” - Article 2(17) SFDR

The SFDR provides a high-level definition of “sustainable investment” (SI), as an investment in an economic activity that contributes to an environmental or social objective, provided that the following two conditions are fulfilled: the investment does not significantly harm any of those objectives and the investee companies follow good governance practices.

Some unclarity around the definition and conditions – one of which is further specified below – has led financial market participants (FMPs) to take divergent practices in their calculation of their share of sustainable investments. Some stakeholders have noted that such divergent practices (e.g., some taking conservative approaches in their SI calculations while others are not) hinder the comparability of the share of sustainable investments among the different FMPs.

B. Do no significant harm – Article 2a SFDR

As outlined in the section above “Do no significant harm” (DNSH) principle is one of the conditions that needs to be met for investments to qualify as SIs under Article 2(17). The current assessment of DNSH needs to be done using the PAI indicators under article 4 SFDR. These PAI indicators were further specified in the SFDR DR 1288/2022. However, there is a high level of discretion for an FMP in how it “takes into account” PAI indicators to meet the DNSH criterion.

- ▶ First, it is unclear how many of the indicators the FMP needs to “take into account” in its product to meet the DNSH criterion. While the clarifications document issued by the ESAs in June 2022 (see par. 48)²⁸ provides some (non-binding) guidance, practices are divergent in the market. Indeed, an approach taken by some FMPs is to provide a vague explanation that their financial product may or may not take into account some PAI indicators, depending on data availability. The latter being a practice that could lead to greenwashing.
- ▶ Second, when an FMP does “take into account” an indicator, there are no set thresholds indicating what constitutes significant harm, leaving it to the FMP to set such thresholds. For example, an FMP takes into account PAI 2 on “Carbon footprint” for one of its products and sets a very high threshold, hence this product could potentially make investments that significantly harm environmental objectives. Further, an approach currently used by some FMPs is to exclude, for a given indicator, a certain percentage of the “worst performers” without analysing the actual levels of harm (e.g., exclusion of the worst 5% of all companies for a given PAI indicator).

In addition to the DNSH under Article 2a SFDR, there is a DNSH under the Taxonomy Regulation. The two DNSH frameworks are not currently linked, and the Taxonomy Regulation DNSH is not applied in the same way as the SFDR DNSH, the former being applied at the level economic activities and the latter at investment level. This means that to qualify as an environmentally SI (i.e., taxonomy aligned investment) an investment must satisfy both DNSH processes.

Beyond the complexity that this represents for FMPs whose products make environmentally SIs (i.e., taxonomy aligned), this adds another layer of complexity hindering retail investors’ understanding, and thus potentially leading to greenwashing.

C. “Promotion of environmental or social characteristics” – Article 8 SFDR

Level 1 requires additional disclosures for a financial product that “promotes environmental or social characteristics” and that does not have “sustainable investment as its objective”. However, it does not further specify what promoting environmental or social characteristics entails. It has been left up to FMPs to assess what it means and whether their products should disclose under this article. Given that disclosing under this article gives products sustainability credentials, many products are found by FMPs to “qualify” to disclose under this article. According to Morningstar²⁹, as of 15 January 2023, Article 8 funds account for 52% of funds in terms of assets, and 35% of SFDR funds in terms of number of funds (while no figures are available at insurance and pension product or scheme level, funds are usually sold as investment options in IBIPs or invested in by pension funds, therefore having a direct impact on the insurance sector and its consumers).

²⁸ JC 2022 23 - Clarifications on the ESAs' draft RTS under SFDR - [link](#)

²⁹ SFDR Article 8 and Article 9 Funds: Q4 2022 in Review | Morningstar - [link](#)

- ▶ The broadness of Article 8 renders it challenging to ascertain whether something promotes or not environmental or social factors – this both for financial market participants and authorities supervising their disclosures – thereby leading to the inclusion of products that might not promote environmental or social factors and preventing supervisors from taking actions against these sorts of products.
- ▶ There is a wide range of Article 8 products, some can have a high share of taxonomy aligned investments and of sustainable investments, while others can have 0% taxonomy aligned investments and 0% sustainable investments. This may mis-lead consumers as they may associate all Article 8 products as being similar while their level of sustainability can significantly differ. Moreover, given that SFDR has been used by market participants as a labelling regime, all Article 8 products – regardless of whether they make SI, taxonomy-aligned investment – are labelled the same. This creates an environment where Article 8 products with stronger sustainability credentials (i.e., those that make sustainable investments or taxonomy aligned investments) are not always easily identified, least of all by retail investors, who might only consider the SFDR classification of the product.

D. Sustainable investment objective - Article 9 SFDR

SFDR requires additional disclosures for a financial product that has a “sustainable investment objective”. Disclosure under this article relies on the definition of sustainable investments under article 2(17). Beyond the issues outlined in A. and B. above, SFDR and its DR do not set threshold with regard to the minimum share of sustainable investments that a product needs to make to fall under Article 9. The SFDR Q&A document issued by the COM in July 2021³⁰ provides (non-binding) clarity that Article 9 products should only make SIs, except where a product needs to make certain types of investments in accordance with prudential sector-specific rules (e.g., liquidity or hedging requirements)³¹. In practice, however, around 20% of Article 9 funds have a commitment to make sustainable investments under 10%, according to a sample analysed by Morningstar as of January 13, 2023³². While data for insurance and pension products is not available considering often funds are re-packaged into insurance and pension products similar issues could exist.

E. SFDR’s use as a labelling regime

SFDR is a disclosure regulation. However, in part due to the way the regulation differentiates between Article 6, 8 and 9 disclosure requirements, in practice, the market has been using SFDR as a labelling regime built around three categories at product level: Article 9 products are those with a sustainable investment objective (sometimes referred to as ‘dark green products’), Article 8 products are those that promote environmental or social characteristics but that do not have a

³⁰ Question related to Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability-related disclosures in the financial services sector (Sustainable Finance Disclosure Regulation 2019/2088 - [link](#))

³¹ These other than “sustainable investments” should still have to meet minimum environmental and social safeguards.

³² Sample of 4 692 funds, Source: [SFDR Article 8 and Article 9 Funds: Q4 2022 in Review | Morningstar](#)

sustainable investment objective (sometimes referred to as ‘light green products’), Article 6 products are those that do not have sustainability features (sometimes referred to as ‘brown/grey products’).

This “labellisation” of SFDR could lead investors, especially retail investors, to pay more attention to the “label” of the product rather than to what kind of investment the product makes. While Article 9 will on average make more SI, it is not uncommon for Article 8 to make more SI than certain Article 9 products. In the sample analysed by Morningstar the top 30% of Article 8 funds make more SI than the bottom 20% of Article 9 funds. In such cases investors might invest in an Article 9 product and overlook its lower share of SI simply because the Article 9 label is seen as more sustainable. The same reasoning applies in relation to taxonomy-aligned investments.

Additionally, some FMPs might focus more on having their products be labelled as Article 9 – as these products are seen as more appealing to investors with sustainability preferences – rather than focusing on making a high share of sustainable investments or of taxonomy-aligned investments in their products.

F. Financial products with investment options under SFDR

The SFDR DR 2022/1288 requires financial products with investment options (MOPs) that either promote environmental or social characteristics or have a sustainable investment objective, to disclose sustainability-related information pre-contractually (Article 20, 21 and 22 SFDR DR) and periodically (Article 65, 66 and 67 SFDR DR).

To qualify as a “financial product that promotes environmental or social characteristics” (Article 8 SFDR) a MOP needs to have at least one investment option that itself promotes environmental or social characteristics. To qualify as a “financial product with a sustainable investment objective” (Article 9 SFDR) a MOP needs to have all investment options that have a sustainable investment objective. This means that a MOP with only one Article 8/9 investment option is an Article 8 product, regardless of whether all the remaining investment options are not Article 8/9. While Article 20 SFDR DR states that in the MOP’s pre-contractual disclosure, there should be a list of Article 8/9 investment options and a statement indicating that “*those environmental or social characteristics will only be met where the financial product invests in at least one of these investment options*”, this could be conducive to potential greenwashing. Indeed, a retail investor that might not read carefully the MOP disclosure, could assume that an Article 8 MOP remains an Article 8 irrespective of the investment option chosen.

Ultimately, the issue is that a MOP will as a whole have sustainability credentials because it is labelled as an Article 8. Hence this is a labelling issue, whereby the disclosure of products under Article 8 or 9 gives them sustainability credentials. If there were no labels, the disclosure could focus

on the type of investments made by the product's investment option, rather than on the product category.

G. Products with sustainability features

The SFDR sets out that financial products under its remit have to disclose on their sustainability features. This allows, via standardised templates, the assessment of products' sustainability features. However, this only covers financial products with investment components such as IBIPs, IORPs schemes, PEPP or pension products, but does not cover non-life insurance. When a non-life insurance product claims having sustainability features, there is no standardised disclosure or criteria outlining how this should be disclosed – except for taxonomy-alignment (Article 8 Taxonomy Regulation disclosure KPI on underwriting activities as specified in Article 6 of COM DR 2021/2178³³). This gives FMPs discretion in how it discloses the sustainability features of its non-life insurance products, making it challenging to assess whether a non-life insurance product does indeed have the sustainability features it claims to have, ultimately leading to potential greenwashing.

H. Entity-level PAI disclosures - SFDR

Financial Market Participants with more than 500 employees are obliged to disclose that they “consider PAI of their investment decisions” in their due diligence statement. However, these undertakings might not take steps to address the principal adverse impacts of their investment decisions, only say that “they consider PAI of their investment decisions” because it is required by SFDR.

I. Product level disclosure as consumer-facing and market disclosures – SFDR

The current SFDR product level disclosures templates serve as consumer-facing disclosures as well as disclosures to the market (e.g., professional investors). This means that a certain level of detail is included in these disclosures to ensure that enough information is accessible to professional investors. However, this level of detail can at time hinder consumers' understanding (e.g., through information overload). For example, a MOP cross-references to the SFDR disclosure of the funds it invests in, which is included in the prospectus of the funds. It can be quite difficult to find the relevant SFDR disclosure due to the length of these documents, especially for consumers.

J. Supervision of marketing communications under SFDR

Article 13 of the SFDR sets out that FMPs and financial advisers must ensure that their marketing communications do not contradict the information they disclose under SFDR. However, this does

³³ Commission Delegated Regulation (EU) 2021/2178 of 6 July 2021 supplementing Regulation (EU) 2020/852 of the European Parliament and of the Council by specifying the content and presentation of information to be disclosed by undertakings subject to Articles 19a or 29a of Directive 2013/34/EU concerning environmentally sustainable economic activities, and specifying the methodology to comply with that disclosure obligation - [link](#)

not set out explicitly NCAs' role in ensuring that these marketing communications are adequate. Looking at "sectoral legislation" as referred to in Article 13 SFDR, the IDD clarifies and strengthens NCAs' competences in relation to product distributors in Article 17 that "*Member States shall ensure that [...] marketing communications, addressed by the insurance distributor to customers or potential customers shall be fair, clear and not misleading*". However, Article 17 of the IDD does not cover product manufacturers, which are often the ones producing advertising and marketing material. Therefore, EIOPA sees merit in strengthening and clarifying NCAs competence in relation to the enforcement of Article 13 SFDR for product manufacturers or expanding the scope of Article 17 of the IDD to also cover product manufacturers.

K. "Sustainability preferences" under IDD DR 2017/2359³⁴:

Under the IDD DR 2017/2359 customers' "sustainability preferences" relate to three criteria: share of taxonomy-alignment, share of sustainable investments under SFDR and whether the investment considers principal adverse impact or not. The latter criterion could be considered as broad as it is not clearly linked to SFDR PAI (i.e., article 2(4)c of IDD does not make any reference to SFDR), leading to potential greenwashing.

Further, investment options not in the remit of SFDR disclosure requirements could still fulfil the taxonomy-alignment and PAI criteria, and therefore could be recommended as meeting consumers' sustainability preferences. However, since there are no disclosure requirements covering these two criteria for such investment options, it is unclear on which information/disclosure distributors would base themselves on when assessing if products with such investment options meet consumers' sustainability preferences. This could potentially lead to a greenwashing.

L. Business to business greenwashing

The Unfair Commercial Practices Directive is useful as it provides a general framework aimed at tackling misleading business-to-consumer environmental claims in all sectors of society, making it broader than SFDR or Taxonomy Regulation. However, this framework does not seem to cover business-to-business environmental claims, which could be the source of the greenwashing occurrence that is ultimately spread to the consumer. There would be merit in having legislation that also covers business to business greenwashing.

M. Data quality and availability

The sequencing of the SUFI legislative framework creates data quality and data availability issues for insurers and pension funds leading to potential greenwashing. For example, FMPs will have to

³⁴ Commission Delegated Regulation (EU) 2017/2359 of 21 September 2017 supplementing Directive (EU) 2016/97 of the European Parliament and of the Council with regard to information requirements and conduct of business rules applicable to the distribution of insurance-based investment products – [link](#)

report SFDR PAI indicators in June 2023 and June 2024 without CSRD reporting of their investee companies, as the first reporting under CSRD will only happen in January 2025 based on 2024 data.

N. No clear distinction as to what is greenwashing and what is not

There is no clear definition of greenwashing in the regulatory framework applying to insurance and pension products. This hinders the tackling of greenwashing, particularly in relation to consumers understanding of greenwashing as well as in relation to the use of supervisory tools to tackle greenwashing. While this report already provides clarity, further aspects may be explored.

6. NEXT STEPS IN VIEW OF THE FINAL REPORT

Based on additional analyses, discussions and evidence that emerges by the delivery of the final report (May 2024), EIOPA will further refine its view on the definition of greenwashing, its impacts and risks (particularly on potential financial stability risk implications), as well as on how greenwashing can occur in the insurance and pensions lifecycle. To further exemplify the latter, EIOPA might develop case studies showing how greenwashing can emerge in practice.

EIOPA will also provide further considerations on the supervision of greenwashing, particularly in relation to any new greenwashing-related supervisory experiences and practices, as well as in relation to greenwashing-related supervisory and enforcement measures, if any.

Finally, EIOPA will further develop the list of issues it has already identified in the regulatory framework and based on those issues it will propose improvements – by way of recommendations – to the regulatory framework relevant to the insurance and pension sectors, including to Level 1 legislation. However as requested by the CfA, EIOPA will not make any proposals that would imply modifications of the Corporate Sustainability Reporting Directive (CSRD).

7. ANNEX

7.1. ACRONYMS AND ABBREVIATIONS

ACPR	Autorité de contrôle prudentiel et de résolution.
AMF	Autorité des marchés financiers
CFA	Call for Advice
CfE	Call for Evidence
COM	Commission
DB	defined benefit
DC	defined contribution
DR	Delegated Regulation
EC	European Commission
EEA	European Economic Area
EIOPA	European Insurance and Occupational Pensions Authority
ESAP	European single access point
ESAs	European Supervisory Authorities
FMPs	financial markets participants
IBIPs	insurance-based investment products
IDD	Insurance Distribution Directive
IORP	institution for occupational retirement provision
NATCAT	natural catastrophe
NCA	National Competent Authorities
PAI	principal adverse impacts
POG	product oversight and governance
PP	with profit participation products
PRIIPS	packaged retail and insurance-based investment products
SFDR	Sustainable finance disclosure regulation

SII Solvency II Directive
TR Taxonomy Regulation
UL unit-linked insurance

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