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## ESAs Call for evidence on better understanding greenwashing

### Responding to this Call for Evidence

The Call for Evidence (CfE) seeks input on potential greenwashing practices in the whole EU financial sector, including banking, insurance and financial markets, and which may be relevant to various segments of the sustainable investment value chain and of the financial product lifecycle.

All interested parties are welcome to contribute to the survey, including financial institutions under the remit of the three ESAs and other stakeholders ranging from retail investors and consumers associations to NGOs and academia.

Respondents are invited to contribute to this CfE, both to the common part and to the ESA-specific sections, or to those sections of the CfE which are relevant for a given respondent (by going directly to the relevant section).

The ESAs will consider all comments received **by Tuesday 10 January 2023 23.59 CET**. All contributions should be submitted online at this [link](#).

### Publication of responses

All contributions received will be published following the deadline, unless you request otherwise in the survey. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure.

The ESAs reserve the right not to publish those responses which are assessed to be of an offensive or defamatory nature, are not related to the topic of the survey, or that include confidential information.

A confidential response may be requested from us in accordance with EBA's, EIOPA's and ESMA's rules on access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the ESAs' Board of Appeal and the European Ombudsman.

### Data protection

Information on data protection can be found at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading Legal Notice, at [www.eiopa.europa.eu](http://www.eiopa.europa.eu) under the heading Legal Notice and on the webpage <https://www.eba.europa.eu/legal-notice>.

### A. Introduction and Background

## I. Introduction

1. Growing demand for sustainability-related products combined with rapidly evolving regulatory regimes and sustainability-related product offerings create a context that may be conducive to increased greenwashing risks.<sup>1</sup> In its Renewed Strategy<sup>2</sup> of July 2021, the European Commission (EC) laid out its expectation that supervisors play an essential role in identifying, preventing, investigating, sanctioning and remediating greenwashing, suggesting that it would issue a request to work on the subject to the three European Supervisory Authorities (ESAs).
2. On 23 May 2022, the ESAs received a request for input from the EC relating to greenwashing risks and supervision of sustainable finance policies<sup>3</sup>. The EC requests each ESA, separately but in a coordinated manner, to provide input on greenwashing risks and occurrences in the EU financial sector and on the supervisory actions taken and challenges faced to address those risks. Two deliverables are foreseen in the request: a progress report expected by end of May 2023 and a final report expected by end of May 2024.
3. The work for this request for input can be structured in the following main areas:
  - a) Clearly defining<sup>4</sup> greenwashing and better understanding the phenomenon, its scale and potential related risks;
  - b) Taking stock of the implementation of relevant sustainable finance legislation within the remit of the ESAs and identifying early challenges for stakeholders and regulators; and
  - c) Mapping out various aspects of the supervisory response and assessing its adequacy from both a legal and a practical standpoint.
  - d) Issuing recommendations based on findings within the areas referred to above.
4. In order to deliver on the EC's request, the ESAs will build on a number of actions already planned under their respective workplans and will rely on a variety of data sources, as well as

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<sup>1</sup> Other drivers of greenwashing risks may include data availability limitations, labelling schemes fragmentations, gaps in skills and expertise, differing terminologies and interpretations of key concepts, financial literacy gaps, etc.

<sup>2</sup> [European Commission Strategy for financing the transition to a sustainable economy, 6 July 2021](#)

<sup>3</sup> [European Commission Request for input related to greenwashing risks and supervision of sustainable finance policies, 23 May 2022](#)

<sup>4</sup> There is no generally applicable and binding definition of greenwashing available in the EU regulatory framework. However, several regulatory instruments, including several EU regulations (including the Taxonomy Regulation and the Sustainable Finance Disclosure Regulation (SFDR)) and one EU regulatory guidance, do refer to greenwashing in specific contexts. Moreover, some non-binding definitions have been put forward. One of them is available in the [ESMA Sustainable Finance Roadmap](#).

on extensive outreach. This CfE will contribute to the collection of up-to-date, detailed evidence to complement other sources of information.

## **II. Objectives and Scope**

5. With regard to the term “greenwashing”, it is important to note that this CfE uses the term broadly to also include sustainability-related claims relating to all aspects of the ESG spectrum (i.e., environmental, social and governance dimensions). This is consistent with the EC’s request for input where the term “greenwashing” is used as referring to sustainability-related claims on environmental, social and/or governance aspects. In this regard, it is important to note that some market participants have given more prominence recently to environmental aspects due to developing sustainable finance legislation focusing on the environment and the increased focus on climate change. As a result, there may be an increasing number of misleading claims on environmental topics leading to greenwashing risks. This does not mean, however, that social and governance aspect could not lead to a significant number of misleading claims.
6. Concretely, the ESAs are interested in collecting:
  - i. The views from various stakeholders on how to understand greenwashing and what the main drivers of greenwashing might be;
  - ii. Examples of potential greenwashing practices across the EU financial sector relevant to various segments of the sustainable investment value chain and of the product lifecycle; and
  - iii. Any available data to help the ESAs gain a concrete sense of the scale of greenwashing and identify areas of high greenwashing risks.
7. This CfE seeks evidence of potential greenwashing practices in connection to sustainability claims regarding entities (hereafter entity-level claims) and products or services (hereafter referenced together under the term product-level). ‘Product’ is a generic term including all financial instruments, securities, investment, banking, insurance or pension products as well as all services relevant for each sector considered. Product-level claims are typically about how a product or service is taking into account sustainability. On the other hand, entity-level claims are made in connection to what an entity is doing at the overall firmwide level (e.g. an insurance undertaking or insurance intermediary, a corporate issuer, a bank, a pension provider, or a benchmark administrator).

8. Furthermore, in line with the scope of the EC’s request for input, the CfE seeks evidence related to potential greenwashing practices both within and outside the scope of current EU sustainable finance legislation. Consequently, the ESAs encourage respondents to also consider providing examples of potential greenwashing practices relating to products, practices, and/or to documents or other means of communication of claims currently not explicitly covered by the EU sustainable finance legislation (e.g. references to ESG awards made in marketing materials, claims made on websites, social media, etc.). For instance, such products include ESG ratings or ESG derivatives. The collection of examples would be relevant given the fast-evolving nature of ESG markets and of the offer of sustainability-related products. The ESAs also encourage respondents to consider providing examples which comply with existing EU sustainable finance legislation but the outcome would still result in greenwashing.
9. This CfE seeks to collect information relating to practices and potential greenwashing risks in the sectors within the remit of the three ESAs. These sectors cover a great variety of financial market participants (e.g. insurers, credit institutions, benchmark administrators, product manufacturers, investors), which may also be present across the sustainable investment and sustainable products value chain (hereafter for simplicity referenced as “the sustainable value chain”). Indeed, there is value in looking at greenwashing from a multidimensional perspective with the help of the sustainable value chain which includes the entities operating in all of the sectors listed below as well as other stakeholders such as the retail investors/consumers.
10. This CfE contains a section on general greenwashing-related aspects relevant for the whole financial sector, as well as three additional sections covering specific aspects within the remit of each of the ESAs. Please note that the below list contains some unavoidable overlap in the form of some entities that fall under the scope of several ESAs (e.g. certain banks providing investment services would in fact be in scope of both EBA’s and ESMA’s remit).
  - a) EBA: credit institutions and related activities such as retail banking activities, corporate and project finance, investment services, own funds, funding, and liquidity instruments; payment service providers and payment services.
  - b) EIOPA: insurance undertakings, insurance intermediaries – including banks acting as insurance intermediaries, financial advisors acting as insurance brokers, and managing general agents – occupational pension schemes, and undertakings offering or planning to offer the Pan-European Personal Pension Product (PEPP).

c) ESMA: investment managers<sup>5</sup>, investment firms<sup>6</sup>, issuers<sup>7</sup> and benchmark administrators<sup>8</sup>. This sectoral prioritisation reflects ESMA's current understanding of the relative degree of greenwashing risks.<sup>9</sup> Beyond these priority sectors, the CfE also aims to collect information on potential greenwashing issues within other segments within the sustainable value chain, in particular credit rating agencies and ESG data and rating providers.<sup>10</sup>

11. All interested stakeholders are invited to respond to this CfE, both to the common part and to the ESA-specific sections, or to those sections of the CfE which are relevant for a given respondent.

12. It is important to note that this CfE does not seek input in relation to sustainability-related claims made regarding entities, products or services not under the scope of the ESAs, such as sustainability-related claims regarding non-financial products (e.g. consumer goods).

### **III. Possible features of greenwashing**

13. In providing feedback on greenwashing in the ESAs common section respondents are invited to consider a number of possible features of greenwashing that are listed below. These features are only illustrative and are not meant to set out a framework that the ESAs have approved or endorsed; they are only meant to help structure the analysis of the greenwashing phenomenon. Sectorial differences may exist.

14. Greenwashing is a complex phenomenon which can involve or impact a multitude of financial market participants and potentially affects all sectors in the sustainable value chain.

15. The drivers of greenwashing are multifaceted and may include demand for sustainability-related products, data-related issues, the need to build expertise and skills, challenges in the application

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<sup>5</sup> For Investment Management, entity-level claims refer to claims made by asset managers under the scope of SFDR. Product-level claims refer to claims regarding investment products like investment funds.

<sup>6</sup> For investment firms, entity-level claims refer mostly to claims made by product distributors and manufacturers. Product-level claims refer to claims regarding: a) products: all financial instruments (within the meaning of Article 4(1)(15) of MiFID II) (b) services: portfolio management and investment advice.

<sup>7</sup> For Issuers' disclosure and governance, entity-level claims refer to claims made by issuers under the scope of NFRD, the upcoming CSRD and/or the Taxonomy Regulation (TR). Product-level claims relate to financial securities and instruments that fall under the remit of ESMA.

<sup>8</sup>For Benchmarks, entity-level claims refer to claims made by benchmark administrators. Product-level claims refer to claims regarding benchmarks.

<sup>9</sup> For more details on the topic, see [esma30-379-1051\\_sustainable\\_finance\\_roadmap.pdf \(europa.eu\)](https://esma.europa.eu/press-material/press-conferences-and-events/other-activities/30-379-1051-sustainable-finance-roadmap)

<sup>10</sup> These two categories of actors and most notably ESG rating providers may play a role in the possible amplification or mitigation of greenwashing risks in the financial system, given their relevance in the investment value chain.

of new rules, inconsistent interpretations of the legal regime and financial literacy gaps, etc. In order to address the causes, it is therefore necessary to understand more clearly the phenomenon and arrive at a shared understanding of greenwashing issues.

16. Greenwashing could be analysed through four main dimensions:

- a) **The role market participants can play in greenwashing, which could include three possible categories: trigger, spreader and receiver of a sustainability-related claim.** These three categories represent three potential roles that stakeholders across the sustainable value chain can have in any given occurrence of greenwashing.
- b) **The actual topics on which the sustainability-related claims are made.** These topics can be cross-sectoral, can apply at entity- and product-level and can be grouped into 3 broad categories. This does not however mean that all 3 categories necessarily lead to greenwashing in all sectors. The 3 categories are: (1) Claims about an entity's governance and remuneration around sustainability and about an entity or a product's dedicated resources to sustainability matters, (2) Claims about sustainability strategy, objectives, characteristics or qualifications of a product, an entity, or a service and (3) Claims about sustainability-related metrics based on historical data or future targets.
- c) **The misleading qualities of a sustainability-related claim, which specify in which way a claim can be construed as misleading** (e.g. selective disclosure or hidden trade-off such as cherry-picking positive information and/or omitting relevant negative information; exaggerated claims and/or failure to deliver on such claims; omission or lack of disclosure; vagueness or ambiguity or lack of clarity; poor advice; etc).
- d) **The channels through which the sustainability-related claims are communicated to other actors across the sustainable value chain** (e.g. regulatory documents, ratings/benchmarks/labels, product information, marketing materials) **or the various stages of the product lifecycle in which they occur** (e.g. product delivery, product manufacturing).

## Questionnaire

### **B. Background questions / contact information**

Country:

Name of respondent or organisation:

Email:

Country: [drop down menu with EU countries and one category for non-EU]

Type of respondent or organisation: Drop down menu with the following options [multiple choice]

- Auditors and third-party verifier
- Bank association
- Benchmarks administrator
- Conglomerate
- Consultancy company
- Consumer association
- Credit Rating Agency
- ESG ratings provider
- Credit institution
- Data provider
- Institutional investor
- Insurance intermediary
- Insurance undertaking
- Investment manager
- Investment firm
- Issuer
- Market association
- Non-Governmental Organisation
- Occupational pension scheme(s) provider
- Payment service provider
- Pension fund
- PEPP manufacturer
- PEPP distributor
- Policymaker

- Regulator/supervisor
- Retail investor/Consumer
- Think tank, academic
- Trade union
- Other, please specify

Do you want your contribution to remain confidential? Yes/no

## C. ESAs common section of the CfE

### 1. Possible features of greenwashing

#### 1.1. Core features of greenwashing

This part of the survey enquires about the views of respondents on what can be seen as core characteristics of greenwashing, including<sup>11</sup>:

- 1) Similarly with the communication of other **misleading** claims there are several ways in which sustainability-related statements, declarations, actions, omissions or communications may be misleading. On the one hand, communications can be misleading due to the omission of information that consumers or investors would need to take an informed transactional or investment decision (including but not limited to partial, selective, unclear, unintelligible, inconsistent, vague, oversimplistic, ambiguous or untimely information, unsubstantiated statements). On the other hand, communications can be misleading due to the actual provision of information, relevant to an informed transactional or investment decision, that is false, deceives or is likely to deceive consumers or investors (including but not limited to mislabelling, misclassification, mis-targeted marketing);
- 2) Greenwashing can occur either at **entity level** (e.g. in relation to an entity's sustainability strategy or performance), at **product level** (e.g. in relation to products' sustainability characteristics or performance) or at **service level** including advice and payment services (e.g. in relation to the integration of sustainability-related preferences to the provision of financial advice).
- 3) Greenwashing can be either **intentional or unintentional** (e.g. resulting from negligence or from misinterpretation of the sustainable finance regulatory framework requirement).

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<sup>11</sup> This should not be understood as the current view of the ESAs.

- 4) Greenwashing can occur at any point where sustainability-related statements, declarations or communications are made, including **at different stages of the cycle of financial products/services** (e.g. manufacturing, delivery, marketing, sales, monitoring) **or of the investment value chain** (e.g. issuer, benchmark/rating provider, investment firms, etc.).
- 5) Greenwashing may occur in **specific disclosures required by the EU sustainable finance regulatory framework** (e.g. SFDR Article 9 product-level disclosure requirements). Greenwashing may also occur as a result of **non-compliance with general principles** – as featured either in general EU financial legislation or more specifically in EU sustainable finance legislation (e.g. the requirement to provide information that is fair, clear and not misleading). In that context, greenwashing may occur in relation to **entities that are currently outside of the remit of the EU sustainable finance legislation** as it currently stands (e.g. ESG ratings).
- 6) Greenwashing **can be triggered by the entity to which the sustainability communications relate** or by the entity responsible for the product, **or it can be triggered by third parties** (e.g., ESG rating providers or third-party verifiers).
- 7) If not addressed, greenwashing will **undermine trust in sustainable finance markets and policies**, regardless of whether immediate damage to individual consumers or investors (in particular through mis-selling) or the gain of an unfair competitive advantage has been ascertained.

**Q A.1:** Please provide your views on whether the above-mentioned core characteristics of greenwashing reflect your understanding of and/or experience with this phenomenon and whether you have anything to add/amend/remove.

**Q A.2:** Do you have or use a specific definition of greenwashing as part of your activities? If so, please share this definition.

## **1.2 Dimensions of greenwashing**

### **1.2.1. The potential roles market participants can play in greenwashing**

**Q A.3:** Market participants could potentially play three main different roles (trigger, spreader, receiver) in any given occurrence of greenwashing. For instance, a corporate issuer can trigger greenwashing by understating its carbon emissions. This misleading claim could be communicated to both investment managers, ESG data providers and/or other market participants some of whom might continue to spread the misleading claim to the end investors/consumers, who will be the receiver of greenwashing.

**Q A.3.1:** Do you agree that market participants could be involved in three different ways in greenwashing, as described above?

- a) Yes
- b) No

**Q A.3.2:** If no, could you please further elaborate on the roles market participants could play in greenwashing, including on potential alternative or additional roles to the ones identified above?

### 1.2.2 The topics of sustainability-related claims

Another dimension of greenwashing is the topic of a given sustainability-related claim, which can be grouped into 3 broad topics. These can be applicable to various sectors across the sustainable value chain and can be cross-cutting at entity- and product-level. However, this does not mean that all of these 3 categories necessarily lead to greenwashing in all sectors. Moreover, it is important to note that one given claim can fall under several topics, for instance an entity making claims about targeting positive impact on climate change can be split into its actual strategy around creating positive impact (falling under Topic 2), its governance around monitoring and implementing this strategy including dedicated staff composed of impact analysts (Topic 1), while the actual metrics referenced to measure the impact would fall under Topic 3. Furthermore, greenwashing can occur in relation to an isolated claim about one of the topics listed below or it may relate to a combination of claims which in aggregate constitute greenwashing.

- Topic 1: Claims about an entity's governance and remuneration around ESG and about an entity or a product's dedicated resources to sustainability matters:

- i. Board and senior management's role in sustainability <sup>12</sup>
  - ii. ESG corporate resources and expertise <sup>13</sup>
- Topic 2: Claims about the sustainability strategy, objectives, characteristics or qualifications of a product, an entity, or a service:
  - i. ESG strategy, objectives, characteristics <sup>14</sup>,
  - ii. Sustainability management policies <sup>15</sup>
  - iii. ESG qualifications / labels / certificates <sup>16</sup>
  - iv. Engagement with stakeholders <sup>17</sup>
- Topic 3: Claims about sustainability-related metrics based on historical data or future targets:
  - i. ESG performance to date (including metrics for impact claims) <sup>18</sup>
  - ii. Pledges about future ESG performance (ESG targets, including net-zero commitments; transition plan, taxonomy alignment plans)

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<sup>12</sup> Topic 1 is mostly relevant for claims made at entity-level. At entity level, topic 1 is meant to cover claims about an organization's governance contribution to sustainability matters (for instance: claims about Board members' sustainability-related expertise and qualifications, claims about the Board's role in sustainability strategy approval, claims about the incorporation of sustainability into senior management performance appraisal or remuneration, etc.). At product-level, one example would be: a claim about a manufacturer's integration of sustainability into firmwide policies that is included into financial products communications."

<sup>13</sup> For example, claims about dedicated ESG staff, training offered by the entity to the staff, ESG credentials of dedicated ESG staff (certifications held/completed, no. of years of experience in ESG); access to ESG data-various ESG data providers specific to entity and/or to certain products

<sup>14</sup> For instance, integration of sustainability in an entity's or product/service's strategy, characteristics, objectives, taking into account clients' sustainability preferences. Some relevant cases in point would be: for funds: current ESG strategies (best in class, exclusions), how financially material ESG factors are identified and integrated in the investment and product design process, environmental and/or social characteristics promoted, sustainable objectives promoted, as well as classifications summarizing the strategy (e.g SFDR Art.6/8/9 , Climate benchmarks), For sustainable products offered under MiFID II like sustainability-linked bonds (SLBs), derivatives (SLDs), sustainability improvement loans (SILs): environmental and/or social characteristics promoted by the KPIs linked to the bond/derivative/loan/security. For products with sustainability features sold under IDD like IBIPs environmental and/or social characteristics promoted by the KPIs linked to the underlying investments and/or the investment strategy of the company. For insurers this, in addition, also includes this includes the business strategy, statements made in transition plans and commitments to aligning their underwriting and investment portfolios with net zero emissions by a certain date, sometimes in conjunction with joining initiatives such as the Net Zero Insurance Alliance. For banks, this includes the business strategy, statements made in transition plans and commitments to aligning their lending and investment portfolios with net zero emissions by a certain date, sometimes in conjunction with joining initiatives such as the Glasgow Financial Alliance for Net Zero (GFANZ).

<sup>15</sup> For instance, all claims regarding an entity or product's policy on sustainability including the consideration or management of ESG risk or consideration or management of ESG impact these claims can be communicated via any type of channel or document, including in firmwide or product-level policies

<sup>16</sup> Adherence to (voluntary) reporting frameworks, labels, ratings, awards, certifications; For green bonds: certifications like by specialized organizations with established frameworks for assessing green bonds; ratings by approved green bond verifiers, mentions of inclusion in ESG/green bond benchmarks

<sup>17</sup> Examples would include claims on engagement priorities, what engagement methods are used, active engagement activities at entity or product level, voting on climate and social issues, how engagement is integrated in the investment decision process, etc.

<sup>18</sup> Relevant cases in point would be metrics based on backward looking data, in the form of ESG or impact metrics (carbon intensity, gender diversity ratios, SFDR PAIs, ESG ratings, SDG alignment scores, internal impact scores,).

**Q A.4:** Please indicate the degree to which you consider each topic described above, as prone to the occurrence of greenwashing. Please provide a score from 1 to 5 (where 1 = very low occurrence ; 2 = low occurrence ; 3 = neutral ; 4 = high occurrence ; 5 = very high occurrence).

- a) Board and senior management's role in sustainability (Topic 1, i)
- b) ESG corporate resources and expertise (Topic 1, ii)
- c) ESG strategy, objectives, characteristics (Topic 2, i)
- d) Sustainability management policies (Topic 2, ii)
- e) ESG qualifications / labels / certificates (Topic 2, iii)
- f) Engagement with stakeholders (Topic 2, iv)
- g) ESG performance to date (including metrics for impact claims) (Topic 3, i)
- h) Pledges about future ESG performance (ESG targets, including net-zero commitments; transition plan, taxonomy alignment plans) (Topic 3, ii)

**Q A.4.1:** Please specify the underlying drivers of greenwashing in relation to the topics you scored higher.

**Q A.5:** For the same list of topics listed in the previous question, please provide a score from 1 to 5 on the potential harm/impact of a misleading claim made on that topic (where 1 = very low impact ; 2 = low impact ; 3 = neutral ; 4 = high impact ; 5 = very high impact).

- a) Board and senior management's role in sustainability (Topic 1, i)
- b) ESG corporate resources and expertise (Topic 1, ii)
- c) ESG strategy, objectives, characteristics (Topic 2, i)
- d) Sustainability management policies (Topic 2, ii)
- e) ESG qualifications / labels / certificates (Topic 2, iii)
- f) Engagement with stakeholders (Topic 2, iv)
- g) ESG performance to date (including metrics for impact claims) (Topic 3, i)
- h) Pledges about future ESG performance (ESG targets, including net-zero commitments; transition plan, taxonomy alignment plans) (Topic 3, ii)

**Q A.5.1:** Please explain what types of impacts or harm and their consequences you anticipate as a result of greenwashing practices.

**Q A.6:** In addition to the three topics and eight sub-topics above, do you identify any additional topics which would be relevant to potential greenwashing issues?

- a) Yes
- b) No

**Q A.6.1:** If yes, please provide below more information on your answer including, if possible, a short example.

**Q A.7:** Please indicate below if you have any additional comments regarding the relevance of the above topics on which sustainability-related claims are made in the context of a given sector or entity .

### 1.2.3 The way in which a claim can be misleading

**Q A.8:** On a scale from 1 (i.e. “not relevant”) to 5 (“very relevant”), please indicate the extent to which you find each of the misleading qualities of a sustainability-related claim listed below relevant to greenwashing practices.

- a. Selective disclosure or hidden trade-off (cherry-picking positive information and/or omitting relevant negative information);
- b. Empty claims (exaggerated claims and/or failure to deliver on such claims);
- c. Omission or lack of disclosure;
- d. Vagueness or ambiguity or lack of clarity;
- e. Inconsistency across various disclosures and communications (marketing, regulatory, website, etc.);
- f. Lack of fair and meaningful comparisons, thresholds, scenarios and/or underlying assumptions;
- g. No proof (unsubstantiated);
- h. Misleading /Suggestive non-textual imagery and sounds (including the use of specific colours like green);
- i. Irrelevance;
- j. Outdated information
- k. Misleading / suggestive use of ESG-related terminology (naming-related greenwashing).
- l. Outright lie (falsehood);

**Q A.8.1:** Please provide further comments to the identified misleading qualities of communication in the context of greenwashing. In particular, should any of the qualities be added, amended or deleted from the list and if so, why?

#### 1.2.4 Which communication channel

Another dimension of greenwashing is represented by the channels through which sustainability-related claims are communicated to other actors in the sustainable value chain.

These channels include, but are not limited to, the following: (1) Regulatory documents (including Key Investor Documents or Key Information Documents (KIDs), prospectuses, financial statements, management reports, non-financial statements, benchmark statements and methodology documents, insurance—product information documents, pension benefit statements, etc.) or regulatory disclosures, (2) Ratings<sup>19</sup>/benchmarks/labels, (3) Product information (including internal classifications and internal target market, product testing and distribution strategy related documentation), (4) Intermediary/advice information, (5) Marketing materials (including website, social media), (6) Voluntary reporting, falling outside previous categories as reported on a voluntary basis.

**Q A.9:** Regarding the above dimension and the list of channels through which misleading claims can be communicated to other segments of the sustainable value chain, please indicate the likelihood that a given channel serves to communicate misleading sustainability claims made at entity level and/or at product/service level. Please score each channel from 1 (rather unlikely) to 5 (very likely):

- a) Regulatory documents (including Key Investor Documents or Key Information Documents, Prospectuses, Financial statements, Management Reports, Non-Financial Statements, Benchmark statements and methodology documents, insurance-product information documents, pension benefit statements, etc.) and/or any mandatory disclosures,
- b) Ratings (ESG ratings and/or other ESG data products),
- c) Benchmarks,
- d) Labels,

- e) Product information (including internal classifications, and internal target market, product testing and distribution strategy related documentation),
- f) Intermediary/advice information,
- g) Marketing materials (including website, social media, advertising)
- h) Voluntary reporting, falling outside previous categories as reported on a voluntary basis,
- i) Other (please specify).

**Q A.9.1:** Please indicate below if you have any comments regarding the communication channels of potentially misleading sustainability-related claims?

1.2.5 At which stage of the lifecycle and where in the business model/management does greenwashing occur

In addition to the different channels of transmission of claims, greenwashing can also occur at various stages of the product lifecycle, including: the product manufacturing stage (product development, product design, market targeting), the product delivery stage (marketing, product-related disclosure, distribution, sales), the product management stage (product monitoring/review, ongoing product-related disclosure). Beyond the product lifecycle, greenwashing can occur at the entity-level: in the business model (value chains, group structures, innovation and technology, outsourcing) or in the business management (culture, governance arrangements, systems and processes).

**Q A.10:** For each of the stages of product lifecycle and with regard to the business model and management, please indicate the likelihood of the occurrence of greenwashing. Please provide scores ranging from 1 (rather unlikely) to 5 (very likely):

- a. Product manufacturing
- b. Product delivery – marketing: advertisements, non-regulatory information
- c. Product delivery – regulatory disclosure
- d. Product delivery – distribution channels
- e. Product delivery – sales: information asymmetry (this includes under or over emphasis of certain product features)
- f. Product delivery – sales: misselling due to misleading information/disclosure
- g. Product delivery – sales: misselling due to unsuitable product
- h. Product delivery – sales: incentives at point of sale

- i. Product management – product monitoring, product review, ongoing product disclosure
- j. Business model at entity level – value chain, group structure, innovation/digitalization, outsourcing
- k. Business management at entity level – culture, governance arrangements, systems and processes

**Q A.10.1:** Please indicate below if you have any comments on the above question.

#### 1.2.6 Further considerations

**Q A.11:** Are there any relevant elements or features of greenwashing which have not been referenced in the questions above?

- a) Yes
- b) No

**Q A.11.1:** If yes, please provide below more information on your answer including, if possible, a short illustration:

## **2. Examples of potential greenwashing practices**

This section of the survey relates to the collection of examples of potential greenwashing practices that you may have encountered that we would like to encourage you to describe below. These examples can be within or outside the current scope of the EU sustainable finance legislation and should refer to the financial sector within the remit of at least one of the ESA's. This CfE does not seek input in relation to sustainability-related claims made regarding entities, products or services not under the scope the ESAs, like sustainability-related claims regarding non-financial products (e.g. consumer goods). Please make sure to provide examples for which you can answer at least some of the below questions. Please provide the details of the described cases to the best of your knowledge.

Please bear in mind that the purpose of this survey is to gather useful and concrete examples that will help the ESAs to better understand greenwashing. Greenwashing cases reported in this CfE are mainly sought for the purpose of informing the advice which the ESAs would provide to the

European Commission. Therefore, you may either give full details about the actual names of the entities or products involved in a potential greenwashing practice, or you may refer to them as 'entity X', 'product Y'.

Respondents can provide up to 5 examples of greenwashing in this survey. If you are able to identify more examples of greenwashing, please choose those cases which are the most relevant in your view, and the most likely to occur.

**Q A.12:** Are you able to identify and characterize at least one example of potential greenwashing practice?

- a) Yes, I can provide at least one example of potential greenwashing practice.
- b) No, I cannot identify a specific example of potential greenwashing practice.

**Q A.12.1:** (If no) If you have not identified occurrences of greenwashing, what is the reason for that? [multiple choice]

- a) There is no specific methodology on how to detect (potential) greenwashing cases
- b) As sustainable finance requirements (including definitions and disclosure standards) are new/not in force yet, greenwashing is hard to detect
- c) Few or no products with sustainability features are offered in my jurisdiction / entity / area of interest, decreasing the risk of greenwashing
- d) I have not encountered any instances of greenwashing.
- e) Other, please specify below

**Q A.12.2:** (If yes) if you have, briefly describe this example of potential greenwashing practice, including the potentially misleading sustainability-related claims identified, a short description of the product, service or entity (as applicable) and of the claim. Please also provide information on how you identified / found out about this case.

**Q A.12.3:** Please indicate if you consider this as an example of potential entity-level or product/service-level greenwashing practice:

- a) Entity level.
- b) Product / service level.
- c) Both entity and product / service level.
- d) Not enough information to determine this.

**Q A.12.4:** In case of product / service level example, what was the asset class/ type of financial product in question? [multiple choice]

- a) Equity (Common shares, other equity instruments)
- b) Fixed income (Green Bonds, Social Bonds and other Use of Proceeds (UoP) bonds, Sustainability-linked bonds, Common corporate bonds, Common government bonds or other fixed income securities)
- c) Derivatives (ESG derivatives including those with an ESG underlying and with an ESG performance target, other derivatives)
- d) Alternative investments (infrastructure, private equity)
- e) Funds, such as UCITS funds and AIFs (excluding ETFs), ETFs, Private Equity funds or other funds (e.g. Hedge Funds, ELTIFs); Benchmarks, such as PAB and CTB Climate Benchmarks, other climate benchmarks or ESG benchmarks
- f) Other MiFID II instruments (Securitisations)
- g) Insurance-based investment products (IBIPs) (including those with sustainability features),
- h) Other life insurance products
- i) Non-life insurance products
- j) Pan-European personal pension product (including those with sustainability features)
- k) Occupational pension scheme
- l) Corporate finance including project finance or specialised lending,
- m) Loan to retail and SMEs including consumer loans, mortgages,) credit cards
- n) Payment services (including online)
- o) Other products or services (please specify)
- p) Not enough information to determine this.

**Q A.12.5:** Please indicate the sectors by which this example of potential greenwashing practice was triggered: [multiple choice]

- a) Issuers (other than credit institutions)
- b) ESG data and rating providers
- c) Credit rating agencies
- d) Benchmark administrators
- e) Investment services providers
- f) Investment managers
- g) Insurance undertakings
- h) Insurance intermediaries

- i) Occupational pension schemes providers
- j) Pension funds
- k) PEPP manufacturers
- l) PEPP distributors
- m) Credit institutions
- n) Payment service providers
- o) Not enough information to determine this
- p) Other (please specify)

**Q A.12.6:** According to you, was the entity triggering this potential greenwashing practice acting:

- a) Intentionally,
- b) Non-intentionally,
- c) I do not know.

**Q A.12.7:** If applicable, please indicate the stakeholders which acted, intentionally or non-intentionally, as spreader [multiple choice] :

- a. Issuers (other than credit institutions)
- b. ESG data and rating providers
- c. Credit rating agencies
- d. Benchmark administrators
- e. Investment services providers
- f. Investment managers
- g. Insurance undertakings
- h. Insurance intermediaries
- i. Occupational pension schemes providers
- j. Pension funds
- k. PEPP manufacturers
- l. PEPP distributors
- m. Credit institutions
- n. Payment service providers
- o. Not enough information to determine this
- p. Other (please specify)

**Q A.12.8:** Please indicate the stakeholders which were the receivers of this example of potential greenwashing practice [multiple choice] :

- a) Issuers (other than credit institutions)
- b) ESG data and rating providers
- c) Credit rating agencies
- d) Benchmark administrators
- e) Investment services providers
- f) Investment managers
- g) Insurance undertakings
- h) Insurance intermediaries
- i) Occupational pension schemes providers
- j) Pension funds
- k) PEPP manufacturers
- l) PEPP distributors
- m) Credit institutions
- n) Payment service providers.
- o) Corporates
- p) Retail investors / Consumers
- q) General public
- r) Not enough information to determine this
- s) Other (please specify)

**Q A.12.9:** Please identify the most relevant topic(s) in this example of potential greenwashing practice [multiple choice]:

- a) Board and senior management's role in sustainability (Topic 1, i)
- b) ESG corporate resources and expertise (Topic 1, ii)
- c) ESG strategy, objectives, characteristics (Topic 2, iii)
- d) Sustainability management policies (Topic 2, iv)
- e) ESG qualifications / labels / certificates (Topic 2, i)
- f) Engagement with stakeholders (Topic 2, ii)
- g) ESG performance to date (including metrics for impact claims) (Topic 3, i)
- h) Pledges about future ESG performance (ESG targets, including net-zero commitments; transition plan, taxonomy alignment plans) (Topic 3, ii)

**Q A.12.10:** Please identify the most relevant misleading characteristics of communication in this example of potential greenwashing practice [multiple choice]:

- a) Selective disclosure or hidden trade-off

- b) Empty claims (exaggerated claims and/or failure to deliver on claims)
- c) Omission or lack of disclosure
- d) Vagueness or ambiguity or lack of clarity
- e) Inconsistency across various disclosures and communications (marketing, regulatory, website, etc)
- f) Lack of fair and meaningful comparisons, thresholds and/or underlying assumptions
- g) No proof (unsubstantiated)
- h) Misleading / suggestive non-textual imagery and/or sounds
- i) Irrelevance
- j) Outdated information
- k) Misleading / suggestive use of ESG-related terminology (naming-related greenwashing)
- l) Outright lie (false)
- m) Other (please specify)

**Q A.12.11:** Please identify the communication channels through which this example of potential greenwashing practice have been communicated [multiple choice]:

- a) Regulatory documents (including Key Investor Documents or Key Information Documents, Prospectuses, Financial statements, Management Reports, Non-Financial Statements, Benchmark statements and methodology documents, insurance-product information documents, pension benefit statements, etc.) and/or any mandatory disclosures
- b) Ratings (ESG ratings and/or other ESG data products),
- c) Benchmarks,
- d) Labels,
- e) Product information (including internal classifications, and internal target market, product testing and distribution strategy related documentation),
- f) Intermediary/advice information,
- g) Marketing materials (including website, social media, advertising),
- h) Voluntary reporting, falling outside previous categories as reported on a voluntary basis,
- i) Other (please specify).

**Q A.12.12:** Please indicate below if the potential greenwashing practice relates to a stage of the product lifecycle or to business model/management [multiple choice]:

- a) Product manufacturing
- b) Product delivery – marketing: advertisements, non-regulatory information
- c) Product delivery – regulatory disclosure
- d) Product delivery – distribution channels

- e) Product delivery – sales: information asymmetry (this includes under or over emphasis of certain product features)
- f) Product delivery – sales: misselling due to misleading information/disclosure
- g) Product delivery – sales: misselling due to unsuitable product
- h) Product delivery – sales: incentives at point of sale
- i) Product management – product monitoring, product review, ongoing product disclosure
- j) Business model at entity level – value chain, group structure, innovation/digitalization, outsourcing
- k) Business management at entity level – culture, governance arrangements, systems and processes)
- l) Not enough information to determine this
- m) Other (please specify)

**Q A.12.13:** Is the example of the potential greenwashing practice related to any of the following situations? [multiple choice]

- a) Mis-selling (i.e. transaction or investment decisions not actually reflecting the actual preferences of the consumer or investor)
- b) Misclassification
- c) Mis-labelling
- d) Naming
- e) Market-abuse (typically consists of insider dealing, unlawful disclosure of inside information and market manipulation)<sup>20</sup>
- f) Other

**Q A.12.13.1:** If yes, please explain in further details how:

**Q A.12.14:** Is this example of potential greenwashing practice the result of a lack of compliance with current EU or national sustainable finance legislation requirements?

- a) Yes
- b) No
- c) Partially
- d) Do not know

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<sup>20</sup> [Market abuse \(europa.eu\)](https://european-council.europa.eu/media/en/press-communications/14443/initiative/14443/14443_en.pdf)

**Q A.12.14.1:** If a) or c), please explain below

**Q A.12.15:** Does this example of potential greenwashing practice relate to a third country entity providing financial services in the EU?

- a) Yes
- b) No

**Q A.12.15.1:** if a.), please explain below

**Q A.12.16:** Please include references/links to supporting materials substantiating this example of potential greenwashing practice. As mentioned above, greenwashing cases reported in this CfE are mainly sought for the purpose of informing the advice which the ESAs would provide to the European Commission. Therefore, you may either give full details about the actual names of the entities or products involved in a potential greenwashing practice, or you may refer to them as 'entity X', 'product Y'. If the cumulated document size exceeds 5 MB, please send us the supporting documents by email (EBA: [EBA.Greenwashing@eba.europa.eu](mailto:EBA.Greenwashing@eba.europa.eu), EIOPA: [ESAsGreenwashingCfE2022@eiopa.europa.eu](mailto:ESAsGreenwashingCfE2022@eiopa.europa.eu), ESMA: [ESMA.Greenwashing@esma.europa.eu](mailto:ESMA.Greenwashing@esma.europa.eu)) by following the below naming convention: Q12.16\_Respondent name\_example\_x, where x=1 to how many examples you choose to upload.

**Q A.12.16.1.** All examples received will be published following the deadline, unless you request otherwise. Please tick this box if you want this example to remain confidential?

- a) I want this example to remain confidential

Thank you for sharing this example of potential greenwashing practices.

**Q A.12.17** Would you like to add another example of potential greenwashing practice?

- a) Yes
- b) No

[If the answer is Yes start again from **Q A.12.2**]

**Q A.13** Do you want to raise any additional points that was not included in this survey?

#### D. EBA section of the CfE

### Greenwashing in the context of credit institutions, investment firms and payment service providers' activities

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#### TYPES AND FORMS OF GREENWASHING

*The questions below aim at identifying the most common forms and types of greenwashing that may occur within credit institutions, investment firms and payment service providers. For some of the items listed, please provide a score from 1 (i.e. 'unlikely') to 5 (i.e. 'extremely likely'), a brief explanation of the score when deemed relevant as well as some examples of how greenwashing may occur.*

Q1. In the context of ESAs' work on greenwashing, claims on environmental (e.g., climate-related) and/or social (e.g., human rights) and/or governance (e.g. director's duties) topics are considered. Based on your experience/knowledge, please indicate which of the following topics may be prone to the occurrence of greenwashing practices by EU banks, investment firms and payment service providers. *[For each of the following items, please provide a score from 1 (i.e. 'unlikely') to 5 (i.e. 'extremely likely')]:*

- a. misleading claim on E topics
- b. misleading claim on S topics
- c. misleading claim on G topics
- d. misleading claim on combined E and S topics
- e. misleading claim on combined S and G topics
- f. misleading claim on combined E and G topics
- g. misleading claim on combined ESG topics
- h. do not know

- Please briefly elaborate on your assessment:

Q2. In the context of credit institutions, please indicate which of the following areas may be prone to the occurrence of greenwashing practices? *[For each of the following items, please provide a score from 1 (i.e. 'unlikely') to 5 (i.e. 'extremely likely')].*

- a. Institution level
  - i. Green/ sustainability-related claim on the business strategy
  - ii. Green/ sustainability-related claim on the corporate governance
  - iii. Green/ sustainability-related claim on other entity-specific aspects  
*[specify]*
- b. Product and service level

- i. Green/ sustainability-related claim on the objectives and/or characteristics of retail and SME banking products and services including,
  - consumer loans
  - mortgages
  - deposits
  - other *[specify]*
- ii. Green/ sustainability-related claim on the objectives and/or characteristics of corporate and investment banking products and services including,
  - specialised lending and project finance
  - venture capital and private equity
  - corporate bonds
  - sustainability linked bonds
  - portfolio management and investment advice
  - other *[specify]*
- iii. Green/ sustainability-related claim on the objectives and/or characteristics of own funds, funding and liquidity instruments including,
  - capital instruments (common equity, other equity)
  - fixed income instruments
    - green or social use of proceeds bonds,
    - sustainability-linked bonds,
    - regular bonds
  - securitisations
  - covered bonds
  - other *[specify]*
- iv. Financing of governments, regional authorities and public sector entities
- v. Payment account and (online) payment services
- vi. Other *[specify]*

- Please briefly elaborate on your assessment:

Q3. In the context of investment firms please indicate which of the following areas may be prone to the occurrence of greenwashing practices? *[For each of the following items, please provide a score from 1 (i.e. 'unlikely') to 5 (i.e. 'extremely likely')].*

- a. Institution level
  - i. Green/ sustainability related claim on the business strategy
  - ii. Green/ sustainability related claim on the corporate governance
  - iii. Green/ sustainability related claim on other entity-specific aspects *[specify]*
  
- b. Product and service level
  - i. Green/ sustainability related claim on portfolio management and investment advice
  - ii. Green/ sustainability related claim on underwriting of financial products
  - iii. Green/ sustainability related claim on trading on own account
  - iv. Green/ sustainability related claim on payment services (e.g. offsetting, clearing, reception transmission of orders)
  - v. Green/ sustainability related claim on other *[specify]*

- Please briefly elaborate on your assessment:

Q4. In the context of payment service providers that are not credit institutions please indicate which of the following areas may be prone to the occurrence of greenwashing practices? *[For each of the following items, please provide a score from 1 (i.e., 'unlikely') to 5 (i.e., 'extremely likely')].*

- a. Institution level
  - i. Green/ sustainability related claim on the business strategy
  - ii. Green/ sustainability related claim on the corporate governance
  - iii. Green/ sustainability related claim on other entity-specific aspects *[specify]*
  
- b. Product and service level
  - i. Green/ sustainability related claim on online payment services
  - ii. Green/ sustainability related claim on crypto currencies
  - iii. Green/ sustainability related claim on other *[specify]*

- Please briefly elaborate on your assessment:

Q5. Please fill-in the table below on a best effort basis with some illustrative examples of potential greenwashing (one cell can include several examples).

	At product and service level					At entity level	
	Retail banking	Corporate banking	Investment services	Payment services and electronic currencies	Own funds, funding and liquidity instruments	Business strategy	Internal corporate governance
Misleading statements on the current sustainability characteristics (i.e. how sustainability is taken into account in the current objective, design, practice or strategy)	e.g., Incorrect disclosures on EU taxonomy alignment (green asset ratio) of mortgages and car portfolios						
Misleading statements on the sustainability results and/or 'real world' impact of a product, service, financial instrument, or entity.	e.g., Unsubstantiated claim that ascertains that a green loan/ investment (e.g., in energy improvement) will allow the customer to reduce home energy consumption by X%						
Misleading statements on the future sustainability commitments relying on medium and/or long-	e.g., Companies making public commitments to reduce scope 3 emissions and/or reach net zero emissions for a given retail						

term plan (e.g., future GHG emissions reduction, transition to carbon neutrality)	portfolio (e.g., mortgages, car loans) but transition plan is not credible.							
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**SCALE AND PREVALENCE OF GREENWASHING**

*The questions below aim at assessing the overall materiality, understood as the scale and prevalence, of greenwashing practices by credit institutions, investment firms and payment service providers. Please elaborate and provide any justification or evidence underlying your response, whenever possible.*

Q6. In your view, the materiality of greenwashing by credit institutions, is:

- a. currently: low, medium, high, I do not know?
- b. going forward: low, medium, high I do not know?

- Please briefly elaborate on your assessment:

Q7. In your view, the materiality of greenwashing by investment firms is:

- b. currently: low, medium, high, I do not know?
- c. going forward: low, medium, high, I do not know?

- Please briefly elaborate on your assessment:

Q8. In your view, the materiality of greenwashing by payment service providers is:

- a. currently: low, medium, high, I do not know?
- b. going forward: low, medium, or high, I do not know?

- Please briefly elaborate on your assessment:

Q9. Greenwashing can also generate financial risks to institutions. For credit institutions, what would be the risks most impacted by greenwashing? *[For each of the following items, please provide a score from 1 (i.e. 'irrelevant') to 5 (i.e. 'extremely relevant') and elaborate if deemed appropriate].*

- a. Operational risk including losses related to litigation and liability risks
- b. Conduct risk
- c. Reputational risk
- d. Strategic and business risk
- e. Funding risk
- f. Liquidity risk
- g. Credit risk
- h. Market risk
- i. Other *[specify]*

- Please briefly elaborate on your assessment. On an optional basis, you may also indicate what types of risks other (non-credit) institutions would be most materially exposed to as a result of greenwashing in your opinion.

Q10. In your view, the potential overall impact of greenwashing (understood here as any detriment that greenwashing may cause, including in terms of financial implications but not limited to) is:

- a. for the credibility of sustainable financial markets: low, medium, high, I do not know?
- b. for end-investors: low, medium, high, I do not know?
- c. for individual customers: low, medium, high, I do not know?
- d. for individual institutions (for example, in terms of impact on revenues or financial losses): low, medium, high, do not know?
- e. For national (if applicable) financial stability (for example, in terms of impact on the functioning and stability of financial markets), low, medium, high, do not know?
- f. For the EU financial stability (for example, in terms of impact on the functioning and stability of financial markets): low, medium, high, do not know?

- Please briefly elaborate on your assessment:

### ADDRESSING GREENWASHING RISKS

*The questions below aim at identifying the potential challenges to prevent greenwashing and at determining how greenwashing risk within EU credit institutions, investment firms and payment service providers could be further tackled. For some of the items listed, please provide a score from 1 (i.e., 'irrelevant') to 5 (i.e., 'extremely relevant'), a brief explanation of the score as well as any justification or evidence underlying your response, whenever possible.*

Q11. What are the main challenges to address greenwashing risk? *[For each of the following items, please provide a score from 1 (i.e., 'irrelevant') to 5 (i.e., 'extremely relevant')]*

- a. Lack of relevant and reliable data on the sustainability credentials, performance and/or impacts
- b. Uncertainty/ambiguity about sustainability standards, sustainability benchmarks, and sustainability eligibility criteria
- c. Lack of internal resources and knowledge to implement and monitor sustainability standards
- d. Lack of third-party verification or supervision
- e. Inappropriate legal basis and tool to investigate and take legal actions against greenwashing
- f. Other *[specify]*

- Please briefly elaborate on your assessment:

Q12. For institutions, which of the following types of tools and processes are used internally to address greenwashing?

- a. tools and processes for greenwashing specifically
- b. tools and processes related to regular business conduct, risk management and regulatory compliance
- c. None

- Please briefly elaborate on your assessment:

Q13. For institutions, what are the most important tools and processes you have in place (or are planning to put in place) to limit and address greenwashing risk. *[For each of the following items, please provide a score from 1 (i.e., 'irrelevant') to 5 (i.e., 'extremely relevant')].*

1. At institution level:
  - a. Monitoring of factors and events that may give rise to reputational concerns
  - b. Code of conduct
  - c. Remuneration policies for sales staff that aim at mitigating the risk of mis-selling
  - d. Prudent communication for all sustainability -related communication
  - e. Internal control mechanism
  - e. Other *[specify]*
  
2. At the product/service level:
  - a. Applying market guidance and/or standards that contribute to anchor definitions and criteria
  - b. Using external reviews and third verification parties
  - c. Establishing a clear list of eligible projects and activities for sustainability lending/finance
  - d. Clear new product approval process and policy that applies to sustainability products
  - e. Other *[specify]*

- Please briefly elaborate on your assessment:

Q14. In your opinion, to what extent is (/will) the EU regulations (or projects) on sustainable finance<sup>21</sup> help addressing greenwashing risk within EU banks, investment firms and payment service providers? Please briefly elaborate on the expected benefits as well as on the potential shortcomings you may see in these regulations (/projects) presently?

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<sup>21</sup> e.g., Taxonomy regulation, EU Green Bond Standard, Eco-label project, SFDR and associated level 2 regulations, Pillar 3 ESG risks requirements under CRR, CSRD.

Q15. Beyond the existing and forthcoming implementation of the EU sustainable finance regulations, what actions could be taken to further mitigate greenwashing risk? *For each of the following items, please provide a score from 1 (i.e., 'irrelevant') to 5 (i.e., 'extremely relevant').*

- a. Develop further labels
- b. Improve supervisory oversight
- c. Develop regulatory guidance
- d. Further increase transparency
- e. Other *[specify]*

- Please briefly elaborate on your assessment:

**E. EIOPA section of the CfE**

Greenwashing and its risks

**Q E.1.** Please outline below whether the occurrence of greenwashing can also lead to other risks for insurance or pension providers (e.g., reputational risks, litigation risks, solvency risks):

Internal monitoring of greenwashing (Targeted stakeholders for this set of questions: insurance and pension providers)

**Q E.2.** Do you have governance processes to prevent and monitor greenwashing in your institution (e.g., sustainable finance committee)?

- a. Yes
- b. No, but you are planning to
- c. No

Q. E.2.1. If you have or are planning to have internal governance processes to monitor greenwashing, please provide more information below.

**Q E.3.** Do you have internal tools to monitor greenwashing in your institution (e.g., systems and controls and/or key risk indicators flagging potential greenwashing)?

- d. Yes
- e. No, but you are planning to
- f. No

Q. E.3.1. If you have or are planning to have internal tools allowing the monitoring of greenwashing, please indicate below to what product this monitoring/reporting relates to [multiple choice]:

- a. Insurance: Life product
- b. Insurance: Non-life product
- c. Insurance: Entity-level greenwashing (this includes a mis-alignment between public commitments and actual investments or underwriting practices)
- d. Insurance: All
- e. Pension: Occupational pension scheme

- f. Pension: Entity/fund-level greenwashing
- g. Pension: All

Q. E.3.2. If you have or are planning to have internal tools allowing the monitoring of greenwashing, please indicate below to what lifecycle stage this monitoring/reporting relates to [multiple choice]:

- a. Manufacturing (product level)
- b. Delivery (product level) – marketing and disclosure
- c. Delivery (product level) – sales
- d. Product management (product level)
- e. Business model (entity level)
- f. Business management (entity level)

Q. E.3.3. If you have or are planning to have internal tools allowing the monitoring of greenwashing, please provide more information below.

Q. E.3.4. If you have no internal monitoring (governance processes and/or tools) of greenwashing and you are not planning on implementing such internal monitoring, please provide your rationale:

Internal monitoring of greenwashing (Targeted stakeholders for this set of questions: insurance intermediaries)

Preventing and monitoring greenwashing:

**Q E.4.** Do you have governance processes to monitor greenwashing in your institution (e.g., sustainable finance committee)?

- a. Yes
- b. No, but you are planning to
- c. No

Q. E.4.1. If you have or are planning to have internal processes allowing the monitoring of greenwashing, please indicate below to what lifecycle stage this monitoring/reporting relates to [multiple choice]:

- a. Delivery (product level) – marketing and disclosure
- b. Delivery (product level) – sales
- c. Product management (product level)

- d. Business model (entity level)
- e. Business management (entity level)

Q. E.4.2. If you have or are planning to have internal processes allowing the monitoring of greenwashing, please provide more information below.

Q. E.4.3. If you have no internal processes allowing the monitoring of greenwashing and you are not planning on implementing such internal monitoring, please provide your rationale:

Other considerations related to the Insurance and Pensions sector

**Q E.5.** For the insurance and pensions sector, please indicate if the following types of claims can in your view give rise to greenwashing:

Q. E.5.1. Misleading claims about the impact of an entity, product or service on environmental or social factors (example: misleading claim about the impact of an entity's activities on the environment)

- a. Yes
- b. No
- c. I don't know

Q. E.5.2. Misleading claims about the financial impact of sustainability risks on the entity or on the performance of the product or service (example: misleading claim about the impact of a natural catastrophe on the financial performance of a product)

- d. Yes
- e. No
- f. I don't know

Q. E.5.3. If you said yes or no to question 5.1 and/or 5.2 please explain your reasoning below:

**Q E.6.** In your view is this situation greenwashing, please explain in the below text box: An insurance/pension provider says that it is improving environmental and social factors via its investments in companies. This insurance/pension provider has consequential voting shares in

various companies, but it does not use these voting shares to push these companies to become more sustainable.

**Q E.7.** Are there any specificities related to greenwashing in the insurance sector that you would like to highlight? If so, please indicate them below:

**Q E.8.** Are there any specificities related to greenwashing in the pension sector that you would like to highlight? If so, please indicate them below:

## F. ESMA section of the CfE

**The ESMA-specific section of the survey below covers questions relevant to entities and products under ESMA's remit.**

All financial market participants and issuers under the remit of ESMA are invited to provide answers to this section. Other stakeholders ranging from retail investors and consumers associations to NGOs and academia are also invited to participate to the extent the views and expertise provided are relevant to ESMA's activities.

### 1. Understanding the drivers and the scale of greenwashing risks

As stated previously, the drivers of greenwashing are multifaceted and better understanding them is critical to addressing the issue.

F.1. Which of the elements listed below, do you consider to be the main driver(s) of greenwashing risks? Please provide a short explanation of your answer: [multiple answers allowed]

- a) New / innovative ESG products in rapidly evolving ESG markets
- b) Entry of new participants such as issuers of ESG products, ESG rating or data providers, etc.
- c) Lack of ESG expertise and skills of market participants
- d) A rapidly evolving regulatory framework
- e) Differing interpretations of the regulatory framework
- f) Desire to exaggerate the sustainability profile at entity/product or service level
- g) Competition (wanting to be better than a comparable issuer/product)
- h) Lack of reliable data
- i) Mismatch between retail investors' expectations and market participants' ability to deliver real-world impact
- j) Financial literacy
- k) Other, please specify: \_\_\_\_\_

Through the questions below, we seek to better understand which ESG aspect(s), which segment(s) of the sustainable investment value chain, and which asset class(es) or product category(ies) may be more prone to greenwashing risks, in relative terms.

F.2. As stated before, this CfE uses the term greenwashing broadly, covering sustainability-related claims relating to all aspects of the ESG spectrum. While the sustainable finance legislation gives more prominence to environmental aspects, we would like to understand which aspects of the ESG spectrum may be more prone to greenwashing risks, at this stage? Please rate the three aspects below from 1 to 5 (where 1 = very low occurrence ; 2 = low occurrence ; 3 = medium occurrence ; 4 = high occurrence ; 5 = very high occurrence [multiple choice])

- a) Environmental aspects
- b) Social aspects
- c) Governance aspects

F.3. Greenwashing may apply to claims at both entity- and/or product-level (including service-related). Based on your experience, we would like to understand which level may be more prone to greenwashing risks in various sectors. For each of the market segments listed below,, please select one of the four options, then please provide a short explanation.

Greenwashing practices are ...	1) more likely at entity-level	2) more likely at product/service-level	3) equally likely at entity and product/service levels
Investment managers <sup>22</sup>			
Investment firms <sup>23</sup>			

<sup>22</sup> For Investment Management, entity-level claims refer to claims made by asset managers under the scope of SFDR. Product-level claims refer to claims regarding investment products like investment funds.

<sup>23</sup> For investment firms, entity-level claims refer mostly to claims made by product distributors and manufacturers. Product-level claims refer to claims regarding: a) products: all financial instruments (within the meaning of Article 4(1)(15) of MiFID II) (b) services: portfolio management and investment advice.

Issuers <sup>24</sup>			
Benchmarks administrators <sup>25</sup>			
Other			

Please provide your explanation below

**F.4.** For market segments which you see as more prone to greenwashing risks, please provide below any quantitative or qualitative data (and relevant links) you may have and that could help inform our understanding of the scale and frequency of potential greenwashing practices. You may also upload files if relevant in the next field.

F.5. With regards to product-level sustainability-related claims, we want to better understand which asset classes, financial products categories may be more prone to greenwashing risks. For each of the asset classes and/or financial products regarding which your expertise is relevant, please provide a score from 1 to 5 (where 1 = very low occurrence ; 2 = low occurrence ; 3 = medium occurrence ; 4 = high occurrence ; 5 = very high occurrence of greenwashing). [ multiple answers allowed]

- q) Equity (common shares, other equity instruments)
- r) Fixed income (green Bonds, Social Bonds and other Use of Proceeds (UoP) bonds, Sustainability-linked bonds, Common corporate bonds, Common government bonds or other fixed income securities)
- s) Derivatives (ESG derivatives including those with an ESG underlying and with an ESG performance target, other derivatives)
- t) Alternative investments (infrastructure, private equity)

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<sup>24</sup> For Issuers' disclosure and governance, entity-level claims refer to claims made by issuers under the scope of NFRD, the upcoming CSRD and/or the Taxonomy Regulation (TR). Product-level claims relate to financial securities and instruments that fall under the remit of ESMA.

<sup>25</sup>For Benchmarks, entity-level claims refer to claims made by benchmark administrators. Product-level claims refer to claims regarding benchmarks.

- u) Funds: UCITS funds and AIFs (excluding ETFs), ETFs, Private Equity funds or other funds (e.g. Hedge Funds, ELTIFs);
- v) Benchmarks: Paris-aligned (PAB), Climate transitioning (CTB) Climate Benchmarks, other climate benchmarks or ESG benchmarks
- w) Other MiFID II instruments (e.g. securitisations)
- x) Other products/services (please specify)

F.6. Greenwashing practices can be transmitted over more than one segment of the sustainable finance value chain. Various options are described below representing various greenwashing transmission trajectories of sustainability-related claims, where the first entity is always the trigger with subsequent entities being either in the role of spreader and/or receiver of claims. Based on your experience, we would like to understand which transmission trajectory may be more prone to greenwashing risks. Please provide a score for each transmission trajectory listed below from 1 to 5 (where 1 = very low occurrence ; 2 = low occurrence; 3 = medium occurrence; 4 = high occurrence; 5 = very high occurrence [ multiple answers allowed] (multiple responses possible)

- a) Issuer X-Issuer Y<sup>26</sup>-Investor or benchmark administrator
- b) Issuer- Benchmark Administrator-Investment manager - Investor
- c) Benchmark administrators-MiFID II manufacturer (e.g. ETF provider)-Investment manager-investor
- d) Benchmark administrators- Investment manager-Investor
- e) Investment manager-Institutional Investment managers<sup>-27</sup>Investor
- f) Investment manager-MiFID II Distributor (e.g. Investment firm) -Retail Investor
- g) ESG rating provider-Investment manager-Investor
- h) ESG rating provider-benchmark administrator -Investor

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<sup>26</sup> At entity-level Issuer Y might be claim to engage with its suppliers/stakeholders (e.g. including Issuer X) about a given E or S topic like Minimum Social Safeguards (e.g. Human Rights/ Child Labour violations). Assuming Issuer X makes misleading claims about this topic, these claims about Issuer Y can thus be spread by Issuer X

<sup>27</sup> The institutional investment managers could select the first asset manager as an underlying investment in their products (e.g. fund of funds), which are then sold to final investors

- i) Issuer-Investment manager -Investor
- j) Issuer - MiFID II Distributor (e.g. Investment firm) -Retail Investor
- k) Other

F.6.1 If the answer was k) other, please specify:

## 2. Consideration of greenwashing risks by financial market participants and issuers

It appears that some industry players already perceive greenwashing as a source of potential risks for their own development and performance and have started to take action with the view to mitigate such risks. The following section seeks to collect insights on how financial market participants and issuers perceive greenwashing and take action to address the issue at their level.

F.7. Does your organisation perceive greenwashing as a potential source of risk?

- a) Yes, and we have started developing a structured approach to tackling the issue
- b) Yes, but we have not yet developed a structured approach to the issue
- c) No
- d) Other, if so specify

F.7.1. If you answered a) or b) to Q7: what category of related risks do you anticipate could result from greenwashing issues? [multiple answers allowed]

- a) Financial risks
- b) Reputational risks
- c) Legal risks
- d) Other, if so specify

F.7.2. If you answered a) or b) to Q7: what types of potential negative impacts do you anticipate as a result of greenwashing issues?

F.7.3. If you answered a) to Q7: What safeguards / risks mitigants have you (or are you planning to) put in place to address greenwashing risks?

F.8. Do you know of any industry initiative that could be instrumental in tackling greenwashing?

F.9. Which do you think are the market mechanisms that can help mitigate greenwashing risks (e.g. reputational issues) and how do you believe supervisors can help in this respect?

F.10. What could policymakers and regulators do more to alleviate greenwashing risks?