

FCA PUBLISHES MUCH-AWAITED DISCUSSION PAPER ON SUSTAINABILITY DISCLOSURE REQUIREMENTS AND INVESTMENT LABELS

09 November 2021 | London
Legal Briefings

The FCA has outline the UK's proposed ESG disclosure and product labelling framework and are of particular relevance to UK asset managers and their investment products.

The FCA, on 3 November 2021, published its discussion paper (the “DP”) on Sustainability Disclosure Requirements (the “SDR”) and investment labels. The DP was published alongside FCA’s ESG strategy (the “ESG Strategy”). The DP is intended to further the FCA’s aim to develop (i) transparency through high-quality sustainability disclosures; and (ii) trust in investment products and protecting consumers from misleading claims about their sustainability characteristics. The FCA’s work in this area also furthers the Government’s ambitions on climate change and green finance set out in the Government’s ‘Greening Finance: A Roadmap to Sustainable Investing Roadmap’, published in October 2021.

The DP notes that consumers are increasingly demanding ‘sustainable’ financial products and that the provision as well as the diversity of such products have seen rapid growth over the last couple of years. The FCA notes that in the absence of common standards, clear terminology and accessible product classification and labelling, there is a risk that consumers become confused by the array of ‘sustainable’ choices in the market and are unable to assess product suitability. This, the FCA says, could lead to a lack of trust in the market for sustainable investment products. The FCA has previously, in its ‘Dear Chair’ letter to authorised fund manager chairs, highlighted the risk of misleading ESG-related claims by products and providers. Through the DP, the FCA aims to start the discussion around developing systems that enhance transparency and trust as ESG and sustainable products continue to grow in prominence.

In order to simultaneously meet the information needs of both retail as well as institutional investors, the FCA is considering a 3-tiered disclosure system comprising (i) product labels (ii) consumer-facing disclosures (aimed at retail investors) and (iii) detailed disclosures (aimed at institutional investors and other stakeholders). Each of these tiers is considered below. The scope of the labelling regime is unclear and the FCA does not indicate whether these will apply to all products being marketed into the UK or only to those being marketed by UK authorised firms. The scope of the disclosure obligations is also not entirely clear, although the DP indicates that these will apply to UK-authorized asset managers and FCA-regulated asset owners (as is the case with FCA's TCFD aligned disclosures). Separately, the FCA states that it is exploring how best to introduce specific sustainability-related requirements for financial advisers, so as to confirm that they should take sustainability matters into account in their investment advice and understand investors' preferences on sustainability to ensure their advice is suitable. The FCA will develop proposals on these requirements for financial advisers in due course.

The input the FCA receives from the DP will inform policy proposals to be issued for consultation in Q2 2022. Comments on the DP should be shared with the FCA by 7 January 2022 using the form available on the FCA website.

[Download our briefing](#) for further guidance on Product classification/Labels and Disclosures.

KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



NISH DISSANAYAKE
PARTNER, LONDON

+44 20 7466 2365
Nish.Dissanayake@hsf.com



MARINA REASON
PARTNER, LONDON

+44 20 7466 2288
marina.reason@hsf.com



SHANTANU NARAVANE
SENIOR ASSOCIATE,
LONDON

+44 20 7466 2077
Shantanu.Naravane@hsf.com



MEGAN O'SHEA
ASSOCIATE, LONDON

+44 20 7466 2246
megan.oshea@hsf.com



NIGEL FARR
PARTNER, LONDON

+44 20 7466 2360
nigel.farr@hsf.com



TIM WEST
PARTNER, LONDON

+44 20 7466 2309
Tim.West@hsf.com



STEPHEN NEWBY
PARTNER, LONDON

+44 20 7466 2481
Stephen.Newby@hsf.com

LEGAL NOTICE

The contents of this publication are for reference purposes only and may not be current as at the date of accessing this publication. They do not constitute legal advice and should not be relied upon as such. Specific legal advice about your specific circumstances should always be sought separately before taking any action based on this publication.

© Herbert Smith Freehills 2022

SUBSCRIBE TO STAY UP-TO-DATE WITH INSIGHTS, LEGAL UPDATES, EVENTS, AND MORE

Close

© HERBERT SMITH FREEHILLS LLP 2023