

# The Grass Is Not Always Greener: Clear and Fair Sustainability-Related Claims

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Until recently, it has been common to see marketing slogans or claims by firms such as:

- “We’re financing the transition to a green economy.”
- “We’re helping businesses across Europe understand how they can be more sustainable.”
- “We’re helping to plant two million trees.”

Marketing campaigns, particularly those run online and through Out of Home channels (these are the posters and billboards seen across city streets) are tried and tested tactics by firms showcasing and establishing their sustainability credentials as well as the sustainability of their products or services. However, upon closer examination of the language used, it’s easy to dismantle such green claims. “Helping” is one of the most ambiguous words in the English language. One could, theoretically, “help” to plant two million trees by simply planting one tree and taking no additional action. A firm may contribute to initiatives financing the transition to a green economy on one hand whilst simultaneously channelling double the amount of finance into oil and gas exploitation, which would likely go unnoticed by the average person on the street and would not be evident from any marketing material produced by the firm.

Marketing teams and advertising agencies have historically used both language and creative license to highlight and promote purported sustainability characteristics in methods they would never go so far as to apply to topics such as investment performance or pension planning. No financial institution would claim “We’re helping our clients to become millionaires.” Consistent standards should be applied across all aspects of financial services, particularly marketing, which shapes an individual’s first impression of a firm and its offerings.

A core element of the mission of the Advertising Standards Authority for Ireland (ASAI)<sup>1</sup> is to protect consumers and the public by setting and enforcing advertising standards, monitoring advertising, and taking action to remove advertising that is harmful, offensive, or misleading. The ASAI also publishes details of its decisions on its website, including those where complaints have been upheld in relation to questionable environmental<sup>2</sup> claims.<sup>3</sup> While the Central Bank of Ireland has not yet imposed any fines specifically for greenwashing, it has made public statements highlighting the risk -noting in their Dear CEO Letter of 2021 that “In particular, firms need to ensure they do not engage in the practice of ‘greenwashing’.”<sup>4</sup>

Financial services firms have been reported to the UK’s Advertising Standards Authority<sup>5</sup> for using precisely these selective types of claims to imply they care about sustainability, while failing to disclose their other, less green activities. This is what regulators are referring to when they discuss “greenwashing” - the promotion of exaggerated or false claims to convey sustainability achievements where few exist. Examples of greenwashing in financial services continue to be identified,<sup>6</sup> with many firms being repeat offenders<sup>7</sup>. The FCA have



Source: <https://tidningensyre.se>

not yet issued any fines however they are increasing scrutiny of the sector.

On 1 July 2025, the European Securities and Markets Authority (ESMA) issued the first of an educational series based on observed market practices titled “Thematic notes on clear, fair & not misleading sustainability-related claims” which addresses greenwashing risks in support of sustainable investments. This first note discusses ESG Credentials<sup>8</sup> and includes the statement;

“ Sustainability information remains increasingly important to the choices of investors. Market participants have a responsibility to communicate sustainability information in line with the principle of “fair, clear, and not-misleading information.”

Participants who promote sustainability may find their claims misinterpreted, irrespective of their original intent. Sustainable reporting, including disclosures under the Sustainable Finance Disclosure Regulation (SFDR)<sup>9</sup>, remains a relatively new concept which the public has yet to engage with in a meaningful way. There is a risk of overloading the average reader with a series of unsubstantiated claims detailing green credentials which, in review, may not have been entirely earned and which may be misleading. To mitigate this risk, ESMA has established four principles to follow when making sustainability claims. These are:

1. **Accurate** - Any claims made need to be a fair reflection of a firm’s sustainability profile and without exaggeration. Data should not be cherry picked or omitted to present a firm in a more favourable light. Statements should be precise, consistent, and relevant to the topic.
2. **Accessible** - Claims should be easy to understand and access, and with an appropriate level of
3. **Substantiated** - Any data and metrics used in support of a claim must be made available, by methods such as providing links to supporting source material and must be based on defined methodologies. When comparing data, comparisons should be on a like-for-like basis with the basis for comparison stated. Any claims made within the documentation should be corroborated.
4. **Up-to-date** - Timely information supporting any claims made or credentials stated is always best, with any relevant dates quoted.

None of the above will be a surprise to a compliance practitioner. This ESMA thematic note aligns with the requirements of the revised Consumer Protection Code (CPC 2025)<sup>10</sup>, which takes effect on 24 March 2026, and includes the Standards for Business. These standards complement the Individual Accountability Framework with the obligation to act honestly, fairly and with integrity, within a customer’s best interests and inform customers effectively included alongside other standards. In addition, CPC 2025 requires in-scope firms to establish and record a consumer’s sustainability preferences in the Know Your Customer phase of engagement to better understand their needs and objectives. Greenwashing undermines this process by distorting the true environmental or social impact of an offering, making it impossible to deliver suitable and ethical recommendations.

### Summary - Compliance Implications

ESMA’s thematic note includes a comprehensive list of Do’s and Don’ts which are worth reading in full. Where a compliance function is preparing marketing teams for the upcoming CPC 2025 changes, it would be worthwhile considering integrating the ESMA thematic note at the same time. Both the CPC 2025 requirements and ESMA thematic note complement each other and assist firms in mitigating this risk. With CPC 2025 set to come into force in March 2026, this is a timely opportunity to solidify this guidance.

### REFERENCES

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