

# Guidance consultation

## Guidance on the Anti-Greenwashing rule

GC23/3

November 2023

### 1 Introduction

#### Why are we consulting

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- 1.1 We are consulting on general guidance that sets out our expectations for any FCA-  
authorised firm that makes claims about the sustainability of a product or service.
- 1.2 Consumers' demand for sustainable products and services is increasing. As a result,  
there has been a growing number of different financial products and services which  
claim to meet that demand.
- 1.3 Our Financial Lives Survey (2022) shows that 74% of adults surveyed agreed that  
environmental issues are really important to them. As the demand for sustainable  
products and services continues to grow, so does the risk of 'greenwashing'. As firms  
increasingly make sustainability-related claims about their products and services,  
there are some concerns that some of these may be exaggerated, misleading, and  
unsubstantiated claims that ultimately do not stand up to scrutiny.
- 1.4 Addressing greenwashing can improve consumer confidence and trust, and enhance  
the transparency, credibility and integrity of markets. If consumers trust the  
sustainability-related claims firms are making about their products and services, this  
increases confidence in markets and the flow of capital into products that can  
genuinely drive positive change.

- 1.5 Tackling greenwashing is a regulatory priority for us. We want to protect consumers from greenwashing so they can make informed decisions that are aligned with their sustainability preferences. But we also want to create a level playing field for firms whose products and services genuinely represent a more sustainable choice and who are making genuine claims about their products' sustainability characteristics.
- 1.6 We have introduced the 'anti-greenwashing' rule (ESG 4.3.1R) into our Handbook to help ensure that sustainability-related claims made by authorised firms about their products and services are fair, clear and not misleading, and are consistent with the sustainability characteristics of the product or service. This rule allows us to challenge firms if we consider they are making misleading claims about their products or services and, if appropriate, take further action.
- 1.7 The anti-greenwashing rule is one part of a package of measures we are introducing through our Sustainability Disclosure Requirements (SDR) and investment labels regime [PS23/16](#). This general guidance is intended to support the implementation of this rule.
- 1.8 The majority of respondents to [CP22/20](#) agreed with our anti-greenwashing rule and some asked for guidance to help industry better understand the rule. Annex 1 contains the guidance on which we are consulting.

## Who this applies to

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- 1.9 This guidance will apply to all FCA-authorised firms who make sustainability-related claims about their products and services. It includes firms that approve financial promotions for unauthorised persons, for communication in the UK.
- 1.10 The guidance will be of interest to all of the financial services sector and other interested stakeholders, including:
  - industry groups and trade bodies
  - consumer groups and consumers
  - policymakers and other regulatory bodies
  - industry experts and commentators
  - academics and think tanks
  - stakeholder advocacy groups

## How this links to our objectives

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- 1.11 In November 2021, we published [our ESG Strategy](#). This sets out the important role the financial services sector has to play in helping the UK economy transition to net zero and adapt to a more sustainable future. The anti-greenwashing rule and proposed guidance support our strategy by improving trust, credibility and integrity in the sustainable finance market.
- 1.12 The rule and this proposed guidance are compatible with our strategic objective to make markets function well, by increasing transparency on the sustainability goals and features of products and firms, and reducing the risk of harm arising from greenwashing.

- 1.13 This guidance is also intended to advance our operational objectives, in particular by helping firms ensure that, as product and service offerings evolve, sustainability claims stand up to scrutiny and consumers are protected from potentially misleading or inaccurate information. Increasing the transparency and accuracy of sustainability-related claims which are made about products and services should also help enhance the integrity and credibility of the market for sustainable finance and ensure that competition remains effective.
- 1.14 We have also ensured this guidance is consistent with our secondary international competitiveness and growth objective. It should enable investors to have better confidence in identifying sustainable products and making informed purchases. Better industry standards should help improve integrity and build on the UK's existing reputation and leading international position in the sustainable finance market. Attracting sustainable investments that support a thriving economy is a key element to promoting innovation which is paramount to increasing the productivity of the UK economy.
- 1.15 In consulting on this guidance, we have had regard to the regulatory principle in the Financial Services and Markets Act 2023 (FSMA 2023) to, where relevant to the exercise of our functions, contribute towards the Government's commitment to achieve a net zero economy by 2050. We have also considered [the Chancellor's latest remit letter](#) to the FCA in 2022, which asked us to have regard in all our regulatory activities to the government's ambitions for the provision of sustainable finance and commitment to a net zero economy by 2050. This guidance is intended to protect consumers from greenwashing and help them better understand which firms and investment products are aligned with the transition to a more sustainable economy.
- 1.16 The Consumer Duty also includes certain requirements regarding how firms communicate with retail customers. We want firms to consider this proposed guidance alongside their obligations under the Duty, where applicable, to help them deliver good outcomes for retail customers. This includes ensuring that customers get the right information, at the right time and in a way they can understand, to help them make informed decisions.

## Equality and diversity considerations

- 1.17 We have considered the equality and diversity issues through the policy development. We do not consider that this proposed guidance will adversely impact any of the groups with protected characteristics under the Equality Act 2010. Overall, we consider that consumers across all groups are likely to benefit from this guidance, as it seeks to protect all consumers from harm. However, we will continue to consider the equality and diversity implications as we finalise this guidance. We welcome your comments on this.

## Costs and benefits of our proposals

- 1.18 We produced a cost-benefit analysis (CBA) when developing and finalising the Sustainability Disclosure Requirements and investment label regime, which included the anti-greenwashing rule. The CBA was published in our [CP 22/20](#) and has been updated and published in [PS23/16](#) in line with our statutory obligations.

- 1.19 As we are not proposing to introduce any new rules, our statutory obligation to publish a CBA does not apply. This guidance seeks to clarify the application of our existing anti-greenwashing rule to help consumers and firms.
- 1.20 Our approach to cost-benefit analyses states that we should produce a CBA for guidance 'if a high-level assessment of the impact of the proposal identifies an element of novelty which may be in effect prescriptive or prohibitive such that significant costs may be incurred'. This guidance is not prescriptive and clarifies existing expectations that follow from the relevant rule. We therefore do not provide a CBA for this guidance.

## How to respond and next steps

- 1.21 Please review the proposals outlined in this guidance. **We welcome views from respondents by 26 January 2024.**
- 1.22 We encourage you to share your comments using [the form](#) on our website or alternatively email your response to **gc23-3@fca.org.uk**.
- 1.23 We will review all responses to this consultation and, subject to responses received, intend to publish the finalised guidance. We propose that the guidance comes into force on 31 May 2024.
- 1.24 We make all responses to formal consultation available for public inspection unless the respondent requests otherwise. We will not regard a standard confidentiality statement in an email message as a request for non-disclosure. Despite this, we may be asked to disclose a confidential response under the Freedom of Information Act 2000. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the Information Commissioner and the Information Rights Tribunal.

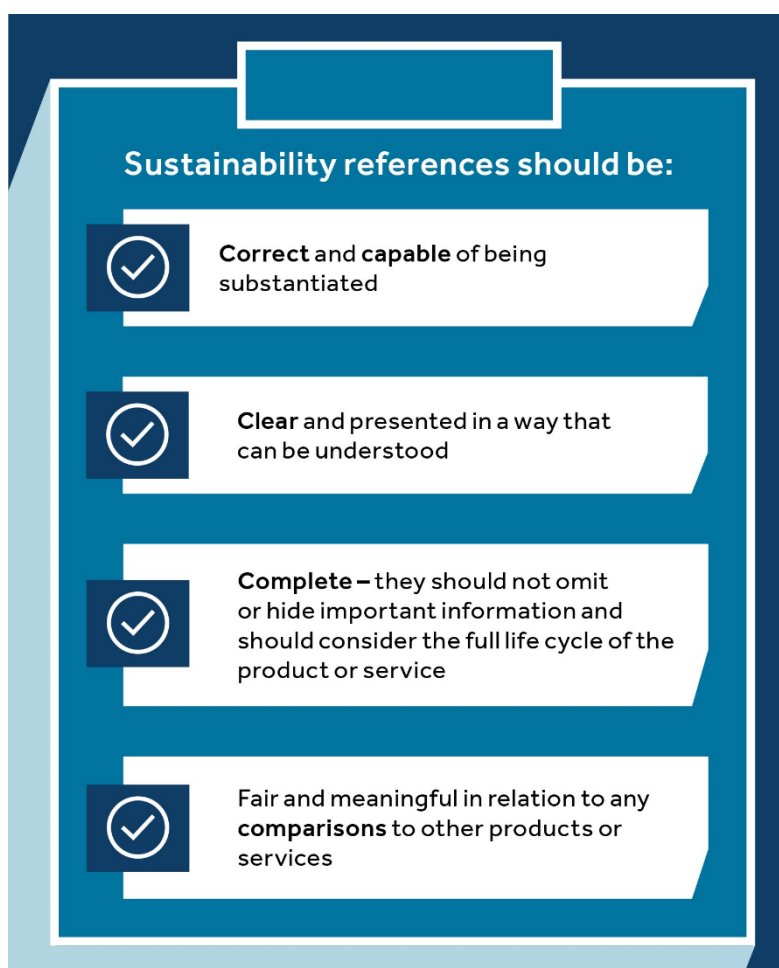
## 2 Summary

### What we are changing

- 2.1 The guidance is designed to help firms that make sustainability claims about products and services better understand our expectations under the anti-greenwashing rule and other existing, associated requirements.
- 2.2 The anti-greenwashing rule requires FCA-authorized firms to ensure that any reference they make to the sustainability characteristics of their financial products and services are consistent with the sustainability characteristics of the product or service and are fair, clear and not misleading.
- 2.3 The rule applies to all communications about financial products or services which refer to the environmental and/or social (ie, 'sustainability') characteristics of those products or services. Sustainability-related references can be present in, but are not

limited to, statements, assertions, strategies, targets, policies, information, and images.

- 2.4 A sustainability-related claim may be any claim which includes references relating to the sustainability characteristics of a product or service. So, it could be a claim that a mortgage or savings account is 'green' or that an investment or pension fund is 'sustainable' and aims to deliver positive outcomes for people or the planet. It could also include, but is not limited to, claims relating to the environment, climate or climate change, biodiversity and nature, social issues, or corporate social responsibility.
- 2.5 In summary, we are proposing the following guidance that firms should take into account when making sustainability claims, which we set out in full in Annex 1:



- 2.6 Ultimately, we expect that firms' sustainability-related claims about their products and services should live up to what they are claiming, and firms should have the evidence to back them up.
- 2.7 We propose that the guidance comes into force on 31 May 2024, at the same time as the anti-greenwashing rule.
- 2.8 We are asking for views on the following questions:

## Consultation questions

- Q1: Does the proposed guidance clarify the anti-greenwashing rule? If not, what more could we do to provide clarity?
- Q2: Do you have any comments on the proposed guidance including the examples given?
- Q3: Do you agree that the guidance should come into force on 31 May 2024?

## Wider context

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- 2.9 We have sought to align our anti-greenwashing rule, and our proposed accompanying guidance, with our existing requirements and expectations for firms.
- 2.10 The FCA Handbook already includes requirements for most firms to ensure that the information they communicate is fair, clear and not misleading. This includes [the Principles for Businesses \(PRIN\)](#) which apply – at least in part – to most firms, as well as specific sections of the Handbook elaborating on what ‘fair, clear and not misleading’ means in specific contexts.
- 2.11 Where subject to the Consumer Duty, we already expect firms to act in good faith towards their consumers, and ensure consumers are provided with information that enables them to make informed decisions.
- 2.12 Our guidance also builds on the existing requirements and expectations for Authorised Fund Managers outlined in our [Guiding Principles](#), published in July 2021.
- 2.13 Firms are also subject to consumer protection law which covers what firms say, how they present it and what they fail to say. Consumer protection law does not prevent businesses from making environmental or sustainability-related claims about their products and services, provided they do not mislead consumers. It provides a framework for firms to make claims that help consumers to make informed choices and, in protecting consumers from misleading claims, consumer protection law also protects businesses from unfair competition. The Competition and Market Authority’s (CMA) [guidance on environmental claims](#) is designed to help firms understand and comply with their existing obligations under consumer protection law.
- 2.14 The CMA also shares certain consumer protection functions with the Advertising Standards Authority (ASA), the UK’s independent advertising regulator. The ASA administers the requirements for advertising in the [UK Code of Non-Broadcast Advertising and Direct and Promotional Marketing](#) and the [UK Code of Broadcast Advertising](#) (the CAP and BCAP Codes). The [ASA’s guidance](#) is designed to help firms interpret the CAP and BCAP rules regarding environment-related advertising issues.
- 2.15 We have worked closely with the CMA and ASA to ensure our proposed guidance to the anti-greenwashing rule is consistent with the CMA guidance and the requirements of the ASA’s CAP and BCAP Codes.
- 2.16 We have separate regulatory responsibilities to the CMA and ASA, but there are some important overlapping areas. Where appropriate, we will continue to

collaborate with the [CMA](#) and [ASA](#), as set out in our respective Memorandums of Understanding.

- 2.17 We expect the anti-greenwashing rule and associated guidance to impose a minimal burden on firms, given they broadly reaffirm and help clarify existing requirements and expectations for firms as outlined in the FCA Handbook, consumer protection law, CAP and BCAP Codes, and the CMA's and ASA's corresponding guidance.
- 2.18 This guidance is also consistent with work in other jurisdictions to address greenwashing.

## Annex 1 Guidance on the anti-greenwashing rule

### Scope

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1. The FCA's anti-greenwashing rule, in the Environmental, Social and Governance sourcebook (ESG) 4.3.1R, requires that a firm must ensure that any reference to the sustainability characteristics of a product or service is: consistent with the sustainability characteristics of the product or service, and fair, clear and not misleading.
2. In the financial services sector, the terms 'environmental', 'social' and 'governance' are commonly used to classify sustainability issues. However, we recognise that there is no single definition of 'sustainability'. In PS23/16 we said that we consider governance to be an enabler of environmental or social outcomes, rather than an end in itself, and we refer to 'sustainability characteristics' as 'environmental or social characteristics'.
3. Our anti-greenwashing rule applies to all communications about financial products or services where they refer to environmental and/or social characteristics of those products and services. Sustainability-related references can be present in, but are not limited to, statements, assertions, strategies, targets, policies, information, and images.
4. The rule applies to all FCA-authorized firms, including firms that approve financial promotions for unauthorised persons for communication in the UK, and irrespective of whether they are subject to the Consumer Duty. Any reference to the Consumer Duty in this guidance is designed to help firms interpret how the rule and the Duty interact, where relevant, but the rule still applies even where the Duty does not. We recognise that some FCA-authorized firms operate a business-to-business model, as opposed to a customer-to-business model. For this reason, we have used the term 'audience' in this guidance to better capture the end-user (for example, existing or prospective clients, customers, consumers, or businesses).
5. The rule links to existing requirements in our Handbook to ensure communications are fair, clear and not misleading, clarifying that these apply in the context of claims referencing the sustainability characteristics of products and services (often referred to in this guidance as 'claims').

## Existing requirements and related guidance

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6. We have introduced the anti-greenwashing rule into the ESG Sourcebook to clarify our expectations when firms are making claims about their products or services which include references to sustainability characteristics (that is 'sustainability claims').
7. Various sections of the FCA Handbook already require most firms to ensure that the information they communicate is fair, clear and not misleading. This includes the Principles for Businesses that apply (in whole or in part) to most firms. There are also sections of the Handbook that elaborate on what the 'fair, clear and not misleading' requirement means in specific contexts. For example, the Conduct of Business Sourcebook (COBS) 4.2 adds further prescription around financial promotions for investments and the Consumer Credit sourcebook (CONC) 3.3 adds detail in respect of consumer credit.
8. Where firms are subject to the Consumer Duty, they will also need to consider relevant rules under the Duty. Our expectations under the anti-greenwashing rule for the retail market are consistent with the Duty. For example, we expect firms to act in good faith towards their retail customers, and to enable and support these customers to pursue their financial objectives. Similarly, under the consumer understanding outcome rules, in PRIN 2A.5, firms should give retail customers the information they need, at the right time, and presented in a way they can understand, to support and enable them to make informed decisions about financial products and services.
9. Firms are also subject to other legislation and guidance that applies to sustainability claims they make about their products and services. This includes consumer protection law; this covers what firms say, how they present it and what they fail to say about the environmental impacts or credentials of their products, services, brands, and activities. The CMA's [guidance on environmental claims](#) is designed to help firms understand and comply with their existing obligations under consumer protection law.
10. Our anti-greenwashing rule is consistent with the CMA guidance and the requirements of the ASA's CAP and BCAP Codes.
11. **The examples given in this guidance are meant to be illustrative and are not real examples.** They are designed to help firms understand what the guidance means in practice.

## Expectations and examples for firms

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12. This guidance is designed to help firms understand our expectations under the anti-greenwashing rule.
13. In practice, the effect of the anti-greenwashing rule and the other rules mentioned above mean that firms should ensure their sustainability-related claims are:
  - **correct** and **capable of being substantiated**
  - **clear** and presented in a way that can be understood
  - **complete** – they should not omit or hide important information and should consider the full life cycle of the product or service
  - fair and meaningful in relation to any **comparisons** to other products or services



## Claims should be correct and capable of being substantiated

14. The claims firms make should be factually correct. Firms should not state or imply features of a product or service that are not true. Nor should they overstate or exaggerate the sustainability or positive social and/or environmental impact of a product or service. Claims should only give the impression that a product or service has the sustainability characteristics that it really has. Claims can also be incorrect if they provide conflicting or contradictory information.
15. A firm's products or services should do what they say they do. They should live up to the claims made, and firms should be able to support those claims with robust, relevant, and credible evidence. Claims should be capable of being substantiated at the point in time at which they are made. Firms should think carefully about whether they have the appropriate evidence to support the claims they are making.
16. It is also important that firms regularly review their claims and any evidence that supports them, to ensure that the evidence still supports those claims. Approvers of financial promotions should take reasonable steps to periodically monitor the continuing ongoing compliance of the financial promotion with the anti-greenwashing rule, and all other financial promotions rules that apply over the lifetime of the promotion, not just on approval.
17. Where a firm's claim makes specific reference to the evidence that supports it, they may wish to consider whether it would be helpful to make that evidence publicly available in a way that is easily accessible.

*The examples given in this guidance are meant to be illustrative and are not real examples.*

### Example 1

A firm makes a promotional statement that an investment fund is 'fossil fuel free'. However, the terms and conditions explain that the investment fund includes investments in companies involved in the production, sale, and distribution of fossil fuels where the company's revenue earned from those activities is below a certain threshold.

The companies within the investment fund are therefore not 'fossil fuel free'. This statement is not factually correct and is not capable of being substantiated, which makes the claim potentially misleading.

### Example 2

In the promotions for a fund, an investment manager prominently displays a claim that all investments are reviewed for their sustainability characteristics. However, these sustainability characteristics are not actually a significant factor in the investment manager's decisions and not all investments are systematically reviewed in the investment process.

The investment manager is overstating the extent to which they consider the sustainability characteristics of investments in the fund and this claim is not capable of being substantiated.

### Claims should be clear and presented in a way that can be understood

18. The claims firms make should be transparent and straightforward, and the meaning of all the terms should be generally understood by the intended audience.
19. Technical language may be difficult to understand, so any technical terms should be explained unless their meaning is clear and widely understood. Firms should consider whether the information they are providing is useful.
20. The use of vague, broad, or general terms may be also unclear and confusing. Firms should not give the impression that a product or service has sustainability characteristics that it does not have.
21. Firms should also be aware of the overall impression that can be created through the visual presentation of a claim. The images, logos and colours used are an important part of the overall presentation of a claim. They should be particularly careful when using images related to sustainability. Claims may be undermined if what they say is factually correct, but their visual presentation conveys a different impression.
22. If firms are subject to the Consumer Duty, they should test their communications where appropriate. This testing should check that communications can be understood, so that consumers can make informed decisions. Firms should consider if it would be appropriate to test their communications where they are making sustainability claims. Our [consumer research](#) on SDR and investment labels outlines the findings from our consumer testing and includes considerations firms may find helpful when developing consumer-facing disclosures.
23. If subject to the Duty, firms should also ensure they have all the necessary information to understand and monitor consumer outcomes. This includes, where relevant, checking if consumers are equipped with the right information to make effective, timely and properly informed decisions. It also includes being able to assess the overall consumer outcomes when they purchase a product or service or when they interact with a firm. For example, whether they use the products or services as expected, the benefits that they receive, and whether they may be subject to harm. Where any issues are identified, firms should investigate the issue and correct any deficiencies.

### Example 3

A firm places a large image of a rainforest at the top of its webpage about its savings accounts, with an overlay of text that reads 'Sustainable Savings'. The webpage includes its 'Green Savings Account' alongside a list of other savings accounts. Its 'Green Savings Account' uses deposits to lend to companies to fund sustainable projects, while its other savings accounts do not.

In this case, the image of the rainforest on the savings account webpage coupled with the text that reads 'Sustainable Savings' may give its audience the impression that the firm will use deposits in all savings accounts to help create positive change. If only deposits in its 'Green Savings Account' are ringfenced to fund sustainable

projects, the use of both words and images in this way is potentially misleading as it gives the impression that the bank invests more into sustainable projects than it actually does.

### **Claims should be complete – they should not omit or hide important information**

24. Claims should convey a representative picture of the product or service. Firms should not omit or hide important information that might influence decision-making.
25. Where claims are only true if certain conditions or caveats apply, those conditions or caveats should be clearly and prominently stated. Similarly, the limitations of any information, data or metrics used in a claim should be clearly and prominently disclosed.
26. Claims should not highlight only positive sustainability impacts where this disguises negative impacts. Claims should be presented in a balanced way and not focus solely on the positive sustainability characteristics of a product or service, where other aspects may have a negative impact on sustainability.
27. Similarly, firms should consider the whole life cycle of a product or service when making sustainability claims and consider which elements of the life cycle are most likely to be of interest in a decision-making process. Claims relating to a specific part of a product's life cycle should be clear as to exactly which part they refer to. Firms should not cherry-pick information as it may give the impression that a product or service has sustainability characteristics that it does not have.
28. Firms are reminded that the CMA and ASA's guidance and FCA Principles 6 and 7 or, as relevant, the Consumer Duty (Principle 12 and the rules in PRIN 2A), apply to sustainability-related claims that a firm may make about itself as a firm. Information about the firm itself may be considered part of the 'representative picture' in a decision-making process so it is important that these claims are also fair, clear and not misleading.

#### **Example 4**

A bank promotes its 'Green bonds – greening the planet' which are used to finance a range of sustainability projects including renewable energy and improving the energy efficiency of companies. However, eligible activities include projects to improve the energy efficiency of fossil fuel production and distribution – information which is not included in the promotional materials.

This is potentially misleading for its audience. The firm is omitting information which could give the impression that its product is more sustainable than it really is. Consumers may associate fossil fuels with negative impacts so the firm should explain why they are eligible activities. Investors need to be given complete information to make an informed decision.

### Example 5

A commonly tracked benchmark claims to be 'sustainable', by excluding companies with ESG ratings 'lower than 3'. The benchmark administrator does not specify what the rating aims to assess, for example, whether it assess sustainability-related risks or impact. It also does not specify the scale the rating uses, which could be 1-10 and does not disclose the rationale regarding why an ESG score of 3 was chosen as the appropriate threshold. It could, in reality, not be a high bar, as standards may vary in some markets.

The benchmark administrator does not provide its audience with complete information and as a result does not make it clear whether and how the product is delivering sustainable outcomes in practice. This could result in users and ultimately end-investors being misled as to the sustainability outcomes of the product.

#### Comparisons should be fair and meaningful

29. The claims firms make when comparing a product or service, either to a previous version of the same product or service or to a competitors' product or service, should be fair and meaningful. Comparisons should enable the audience to make informed choices about the products or services.
30. Claims comparing the sustainability characteristics of products and services should make clear what is being compared, how a comparison is being made, and should compare like with like. Claims that appear to make market-wide comparisons but are based only on a limited sample have the potential to mislead their audience.
31. Firms should be careful when making claims about the extent to which a feature of a product or service has sustainability characteristics when it may simply be meeting a minimum standard of compliance with existing legal requirements. Such claims could be misleading, as, while they may be true, they may also wrongly give the impression that their product or service is superior to others available.
32. Where comparative claims are made, any evidence to substantiate those should cover all products or services compared.

### Example 6

An insurer offers 'The UK's Greenest Car Insurance'. This insurance product is therefore likely to be understood by its audience as having the most positive overall environmental impact of all UK car insurance products.

This may be accurate, but there is no information to demonstrate how it has made the most positive environmental impact compared with of all UK car insurance products. The insurer should make it clear how this conclusion was reached and what comparisons this claim is based upon. The insurer should have evidence to back up this claim.

### Example 7

A firm claims that by purchasing their investment bond, investors will 'reduce emissions' more than through the purchase of any other investment bonds on the market. However, the firm does not make it clear to its audience that this comparison refers only to Scope 1 emissions (as opposed to all emissions – Scope 1, 2 and 3) and was based on a limited sample at a particular date in time.

The market participant has picked information which means it paints a better picture of its investment bond compared to others on the market. The claim does not make clear how the comparison is being made or its limitations. The market participant needs to make the limitations of the comparative claim clearly, and in doing so, will need to explain what is meant by Scope 1, 2 and 3 emissions if this technical language is not widely understood by the intended audience.

## Annex 2 Abbreviations used in this paper

<b>Abbreviations</b>	Description
<b>ASA</b>	Advertising Standards Agency
<b>BCAP</b>	UK Code of Broadcast Advertising
<b>CAP</b>	UK Code of Non-Broadcast Advertising and Direct & Promotional Marketing
<b>CBA</b>	Cost Benefit Analysis
<b>CMA</b>	Competition and Markets Authority
<b>COBS</b>	Conduct of Business Sourcebook
<b>CONC</b>	Consumer Credit Sourcebook
<b>CP</b>	Consultation Paper
<b>ESG</b>	Environmental, Social and Governance
<b>FCA</b>	Financial Conduct Authority
<b>FSMA</b>	Financial Services and Markets Act 2023
<b>GC</b>	Guidance Consultation
<b>PRIN</b>	Principles for Business Sourcebook
<b>PS</b>	Policy Statement
<b>SDR</b>	Sustainability Disclosure Requirements
<b>UK</b>	United Kingdom
<b>US</b>	United States