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European Regulators Launch Joint Consultation on Greenwashing



By **Simon Walsh**
Special Counsel | Global Litigation

On November 15, three European supervisory authorities ("ESA"s) — the European Banking Authority ("EBA"), the European Insurance and Occupational Pensions Authority ("EIOPA") and the European Securities and Markets Authority ("ESMA") — [announced a Call for Evidence](#) on greenwashing. The ESAs are seeking feedback 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.” The Call for Evidence defines greenwashing “broadly” to include “sustainability-related claims relating to all aspects of the ESG spectrum.”

In the consultation, the ESAs are requesting:

- views on how to understand greenwashing and the main drivers behind it;
- examples of potential greenwashing across the EU financial sector; and
- data to assist the ESAs in gaining a “concrete sense of the scale of greenwashing and identify areas of high greenwashing risks.”

The ESAs [requested](#) that all interested parties, “including financial institutions under the remit of the three ESAs and other stakeholders ranging from retail investors and consumers’ associations to NGOs and academia,” submit their responses by Tuesday, January 10, 2023. The ESAs anticipate issuing a progress report in May 2023 and a final report in May 2024.

Taking the Temperature: Regulators and companies continue to struggle to define what constitutes greenwashing. Just this week, as we [reported](#), the UN High-Level Expert Group on the Net Zero Emissions Commitments of Non-State Entities published a report that, in our view, proposed an aggressively broad greenwashing definition that would sweep up conduct that ordinarily would not be considered in the greenwashing calculus. As another example, in May 2022,

ESMA [issued](#) a supervisory briefing addressing sustainability disclosures in the investment management industry. By issuing a Call for Evidence, these regulators appear to recognize the need for input from industry in light of the significant impact regulatory articulations of greenwashing will have on market participants.

(This article originally appeared in "[Cadwalader Climate](#)," a twice-weekly newsletter on the ESG market.)
