

**MEMO# 34470**

December 1, 2022

# ESAs Call for Evidence on Better Understanding Greenwashing

[34470]

December 1, 2022

TO: ICI Members

ICI Global Members

ESG Advisory Group

ESG Task Force SUBJECTS: Disclosure

ESG

International/Global

Investment Advisers RE: ESAs Call for Evidence on Better Understanding Greenwashing

The three European Supervisory Authorities (ESAs)[\[1\]](#) published a Call for Evidence on greenwashing to gather input from stakeholders on how to understand the key features, drivers and risks associated with greenwashing and to collect examples of potential greenwashing practices.[\[2\]](#) Comments are due Tuesday 10 January 2023 23.59 CET.

The ESAs received a request for input from the European Commission related to greenwashing risks and supervision of sustainable finance policies on 23 May 2022,[\[3\]](#) and the ESAs have a number of actions underway to deliver on the EC's request. The Call for Evidence will contribute to that work.

The ESAs are interested in collecting:

1. The views from various stakeholders on how to understand greenwashing and what the main drivers of greenwashing might be;
2. 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
3. Any available data to help the ESAs gain a concrete sense of the scale of greenwashing and identify areas of high greenwashing risks.

The Call for Evidence seeks evidence of potential greenwashing practices in connection to sustainability claims regarding entities and products or services and seeks evidence related to potential greenwashing practices both within and outside the scope of current EU sustainable finance legislation. It seeks to collect information relating to practices and potential greenwashing risks in the sectors within the remit of the three ESAs and 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.

Among other things, the Call for Evidence seeks respondents' views on what it describes as core characteristics of greenwashing, including:

1. There are several ways in which sustainability-related statements, declarations, actions, omissions or communications may be misleading, such as due to the omission of information that consumers or investors would need to take an informed transactional or investment decision or actual provision of information, relevant to an informed transactional or investment decision, that is false, deceives or is likely to deceive consumers or investors.
2. Greenwashing can occur either at entity level, product level or service level.
3. Greenwashing can be either intentional or unintentional.
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 or of the investment value chain.
5. Greenwashing may occur in specific disclosures required by the EU sustainable finance regulatory framework or as a result of non-compliance with general principles - as either in general EU financial legislation or more specifically in EU sustainable finance legislation. 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.
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.
7. If not addressed, greenwashing will undermine trust in sustainable finance markets and policies.

Respondents are invited to provide their views on whether the description of the core characteristics of greenwashing reflect their understanding and/or experience.

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Associate General Counsel

#### Notes

[1] The three ESAs are the European Banking Authority (EBA), European Insurance and Occupational Pensions Authority (EIOPA), and European Securities and Markets Authority (ESMA).

[2] See ESAs Call for evidence on better understanding greenwashing (15 November 2022), available at [https://www.esma.europa.eu/sites/default/files/library/esas\\_call\\_for\\_evidence\\_on\\_greenwashing.pdf](https://www.esma.europa.eu/sites/default/files/library/esas_call_for_evidence_on_greenwashing.pdf).

[3] European Commission Request for input related to greenwashing risks and supervision of sustainable finance policies (23 May 2022), available at [https://www.esma.europa.eu/sites/default/files/library/request\\_to\\_esas\\_on\\_greenwashing\\_m](https://www.esma.europa.eu/sites/default/files/library/request_to_esas_on_greenwashing_m)

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