CONSULTATION PAPER

on the Opinion on sustainability claims and greenwashing in the insurance and pensions sectors

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European Insurance and
Occupational Pensions Authority

BETTER FINANCE
The European Federation of Investors and Financial Services Users
Fédération Européenne des Épargnants et Usagers des Services Financiers

Greenwashing in insurance and pension sectors

EXECUTIVE SUMMARY

EIOPA's Opinion on sustainability claims	Sustainability claims refer to statements or representations about a product's or entity's sustainability profile, conveyed through text, visuals, or other media. These claims can be made across all stages of the insurance and pensions lifecycle, including business models, product manufacturing, and marketing. They include regulatory disclosures (e.g., SFDR, Taxonomy Regulation), marketing materials, policies, ratings, and product names, which significantly influence consumer decisions. EU legislation mandates that sustainability-related information be clear, fair, and not misleading, as outlined in SFDR, IDD, and IORP II. Misleading claims such as selective disclosure, vagueness, or falsehoods can contribute to greenwashing. Despite an evolving regulatory framework, fairness principles guide authorities in identifying and addressing misleading sustainability claims in insurance and pensions.
The need for accurate sustainability claims (Principle 1 and 2)	Accurate sustainability claims should be precise, fair, and aligned with a provider's business model and product features. Claims must avoid overstatements or omissions that could mislead consumers. Providers should ensure sustainability commitments reflect actual investment and underwriting strategies. Sustainability considerations should be integrated into corporate decision-making, risk management, and governance. Products must align with target market sustainability objectives, and distributors should have relevant expertise. Claims should remain up to date, with changes clearly communicated. Sustainability-related product names must be specific and substantiated. Misleading claims risk greenwashing and regulatory breaches under EU legislation.
The need for substantiated sustainability claims (Principles 3) and accessible sustainability claims (Principle 4)	Sustainability claims must be substantiated with clear reasoning, facts, and due diligence. Providers should ensure claims are accurate, verifiable, and supported by credible plans, especially for long-term goals like net-zero commitments. ESG ratings should be explained for relevance. Manufacturers must align product sustainability features with target market expectations through research and testing. Claims must also be accessible, using clear language, consumer-friendly platforms, and structured documentation. Distributors should ensure consumers understand sustainability preferences and product features, providing transparent and timely disclosures for informed decision-making.

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BETTER FINANCE supports EIOPA's draft Opinion on sustainability claims and greenwashing in the insurance and pension sectors. Greenwashing is a significant risk for retail investors and must be addressed to maintain consumer trust. Investors require clear, comparable, and reliable sustainability information to make informed decisions. Financial products should accurately reflect their stated objectives, and common requirements for sustainability claims are essential to combat greenwashing. We acknowledge EIOPA's comprehensive approach, but suggest integrating SFDR disclosure alignment, RIS sustainability training within IDD, and alignment with CSRD reporting to reinforce regulatory consistency. We broadly agree with Principles 1 and 2 for ensuring accurate sustainability claims but recommend further clarification for varied market applications. Principle 3 is essential for substantiating sustainability claims, yet further guidance on proportionality is necessary. Principle 4's focus on accessibility and clarity is crucial, with layering of information and sustainability dashboards offering potential solutions.

Question 1: Do you agree with the above understanding of what sustainability claims are and how they can be mis-leading?

BETTER FINANCE welcomes EIOPA's draft Opinion on sustainability claims and greenwashing in the insurance and pension sectors. In its response to the joint ESAs call for evidence on greenwashing, BETTER FINANCE emphasised its view that greenwashing is a major risk for retail non-professional investors and others alike, and as such must be addressed thoroughly in order to avoid reduced consumer trust and confidence in financial markets. Retail investors need reliable and comparable information as well as guidance for their investments. A product should explain what it does and do what it says. With the rapid development of sustainability denominated financial products, it is becoming increasingly important to assess their impact on the real economy. Providing a common understanding of sustainability claims is essential to help competent authorities tackle greenwashing practices, and to ensure consumers' protection. BETTER FINANCE agrees with EIOPA's opinion on sustainability claims, which closely mirrors the joint ESAs approach to greenwashing. Sustainability claims made by products should abide by common requirements to provide fair, clear, and non-misleading information as set out in the IDD.

Question 2: Stakeholders views are sought where they believe that other requirements – beyond those already identified by EIOPA in this Opinion – already cover sustainability claims

The current Opinion presents a well encompassing overview of requirements covering sustainability claims. However, BETTER FINANCE is of the view that the changes to the SFDR disclosure templates can also improve standardisation of sustainability disclosures and upcoming RIS could integrate sustainability training within IDD requirements. Additionally, EIOPA's Opinion could further integrate the CSRD's reporting requirements which cover insurers' alignment to 1.5°C climate trajectory.

Furthermore, given the changing regulatory landscape around sustainability, efforts should be placed in ensuring consistency as well as further alignment with existing legislation.

Question 3: Do you agree with Principle 1 and 2 and whether these principles help ensuring that sustainability claims are accurate?

Both Principles offer sufficient considerations to ensure accuracy of sustainability claims. However, it should be noted that with different markets, some elements of the Principles might need further clarification and guidance in order to ensure that market practices are consistent and in the interest of consumers and retail non-professional investors. For example, in 3.9 engagement may not be applicable to all insurance products and thus minor nuances should be amended to avoid confusion. BETTER FINANCE also appreciates the good and bad practices, though a more developed examples showcasing good practices would be preferable.

Question 4: Do you agree with Principle 3? In particular do you agree that due diligence and proportionality should be taken into account when determining if a sustainability claim is substantiated with clear reasoning and facts?

The Principle covers essential information, which can ensure consumers' trust in relation to sustainability claims made by providers. BETTER FINANCE is of the view that details on what proportionality would mean in the application of this Principle, might be beneficial.

Question 5: Do you agree with Principle 4 and the need to ensure that sustainability claims made by providers are understandable and accessible for the targeted stakeholders?

Providing clarity and transparency to consumers is a vital element, which needs to balance the information needed that is also understandable and useful for consumers. Tailoring the substantiation of sustainability claims to a target audience is the step in the right direction. BETTER FINANCE is of the view that good/bad practices can be very useful to all stakeholders as guidance and educational material. With planned Level 1 revisions of the SFDR, new categories can simplify the application of this Principle and simplicity should remain as a key focus, which can be implemented via layering of information or sustainability summary dashboards for example.

Question 6: What do you think would be the costs and benefits of this opinion?

The benefits of this Opinion are mainly related to the clarification of what constitutes sustainability claims that are not misleading as well as providing a set of Principles, which can help create a more standardised approach to responding to consumer and non-professional investor needs.

Question 7: Do stakeholders have other comments on this opinion?

Recent research from Yale University and Boston College defines Impact elasticity as the change in environmental impact of a firm due to a change in its cost of capital.

Sustainable investing that directs capital away from brown firms and toward green firms may be counterproductive in that it makes brown firms browner without making green firms greener. (Source: November 2023 Research paper on counterproductive sustainable investing: the impact elasticity of brown and green firms: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4359282)

Research from BETTER FINANCE also shows that some sustainability labels could also be counterproductive, for example by excluding only the best oil and gas companies in the world in terms of renewable energy transition efforts and investments. For example, the French Public and popular "ISR" label for investment funds (therefore for units in unit-linked insurance) has just decided to de facto exclude the 3 biggest European companies which account for about 5% of the World's oil and gas production ... but 60% of World's total oil and gas companies' investments in renewable energy (source: International Energy Agency, 2023).

EIOPA should also take into account the existing evidence provided by published independent or academic surveys and research, in particular in the area of unit-linked life insurance and insurance-regulated pension products. In particular, independent surveys show that a majority of individual investors expect real world impact from finance products which are labelled as "green" or "sustainable", however, the majority of them cannot detect impact-washing without external support. In this study analysing the biggest 450 article 8 and article 9 (SFDR categories) funds, only 27% of all in scope funds were associated with environmental impact claims. No fund with an environmental impact claim could sufficiently substantiate its claim according to the updated UCPD Guidance indicating a substantial potential legal risk. A high number of misleading environmental impact claims in legal documents (including SFDR disclosures) and commercial marketing materials. Therefore, in order not to mislead the majority of people investing in units claiming any sustainability relationship, EIOPA should require that any sustainability claim be accompanied by a clear statement indicating alongside if the fund or unit has any impact claim in the real world.

About BETTER FINANCE

BETTER FINANCE, the European Federation of Investors and Financial Services Users, was created in 2009 to give European consumers of financial services a voice. Supported by the European Union since 2012, BETTER FINANCE acts as an independent financial expertise and advocacy centre to the direct benefit of European financial services users. Since its constituency includes individual and small shareholders, fund and retail investors, savers, pension fund participants, life insurance policy holders, borrowers, and other financial services users, BETTER FINANCE has the best interest of all European citizens at heart. It represents about 4 million financial users through 39 organisations in 26 countries. BETTER FINANCE believes that the financial system exists to serve the real economy.