

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

Fields marked with * are mandatory.

Responding to this Consultation Paper

EIOPA welcomes comments on the Consultation paper on the Opinion on sustainability claims and greenwashing in the insurance and pensions sectors.

Comments are most helpful if they: respond to the question stated, where applicable; contain a clear rationale; and describe any alternatives EIOPA should consider.

Please send your comments to EIOPA via the EU Survey questionnaire outlined below, by **12 March 2024 23.59 CET**.

Contributions not provided via the EU Survey or after the deadline will not be processed. In case you have any questions please contact EIOPA.greenwashing@eiopa.europa.eu.

Publication of responses

Your responses will be published on the EIOPA website unless: you request that they be treated confidentially, or they are unlawful, or they would infringe the rights of any third party. Please, indicate clearly and prominently in your submission any part you do not wish to be publicly disclosed. EIOPA may also publish a summary of the survey input received on its website.

Please note that EIOPA is subject to Regulation (EC) No 1049/2001 regarding public access to documents and EIOPA's rules on public access to documents.

Declaration by the contributor

By sending your contribution to EIOPA you consent to publication of all information in your contribution in whole/in part – as indicated in your responses, including to the publication of your name/the name of your organisation, and you thereby declare that nothing within your response is unlawful or would infringe the rights of any third party in a manner that would prevent the publication.

Data protection

Please note that personal contact details (such as name of individuals, email addresses and phone numbers) will not be published. EIOPA, as a European Authority, will process any personal data in line with Regulation (EU) 2018/1725. More information on how personal data are treated can be found in the privacy statement at the end of this material.

Next steps

EIOPA will consider the feedback received, develop the impact assessment based on the answers to the questions included in this consultation paper, as well revise this Opinion accordingly.

General information

* Country

BE

* Name of the respondent or organisation

Actuarial Association of Europe

* Email

stephanos@shsactuarial.com

* Type of respondent:

- ☐ Consumer/Retail investor
- ☐ Insurance undertaking
- ☐ Insurance intermediary
- ☐ Occupational pension scheme(s) provider
- ☐ PEPP provider
- ☐ ESG data provider
- ☐ Academic
- ☒ Non-Governmental Organisation
- ☐ Other, please specify

* Treatment of comments provided:

- ☐ Confidential
- ☒ Publicly available

Public consultation questions

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

We generally agree with the understanding of what sustainability claims are and how they can be mis-leading. We would like to add the following suggestions and remarks for consideration by EIOPA:

- There is a need to provide clear definitions of the specific issues that can be misleading, particularly through the inclusion of relevant examples (e.g., from EU legislation if possible).
- It could be clarified that the intention behind misleading claims is irrelevant e.g. whether the intention was to deceive or whether it was due to exaggeration.
- The scope of the opinion could be expanded to explicitly address the role and responsibilities of sales intermediaries (agents, brokers, etc.) in misleading sustainability claims.

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

There is scope to expand the frameworks and regulations considered for sustainability claims beyond those identified by EIOPA in the draft opinion.

In particular, both international frameworks (such as the UN SDGs) and local/country-specific regulations (an example would be the consumer protection codes at a country level) play crucial roles in governing sustainability claims. This suggests the importance of recognising a diverse range of standards and regulations to adequately cover sustainability claims.

Some specific observations are listed below:

- UN Sustainable Development Goals (SDGs) could also be mentioned as an alternative framework to EU SFDR, noting that UN SDGs can also apply to non-life insurance products, contrary to SFDR.
- Corporate Sustainability Reporting Directive (CSRD) was not explicitly referenced in Section 1.2. This requires firms to make sustainability disclosures and thus could be open to the risk of greenwashing.
- Consider greenwashing restrictions and definitions from other global regions for a more internationally inclusive approach.
- Reference could be made to other elements of the Insurance Distribution Directive (IDD) for example in relation to requirements on transparency, disclosure of conflicts of interest, record-keeping obligations etc.

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

We generally agree with the overarching principles and recognize the importance of accurate and transparent sustainability claims.

Below we set out some general remarks for consideration and some broader concerns:

- We would like to underline the importance of companies demonstrating diligence in their sustainability claims, including a clear process of challenge, review, and documentation of any changes in sustainability messaging, ensuring a transparent rationale is included for adjustments.
- The possibility of merging principles (e.g. Principles 2 and 3) to streamline guidance without sacrificing the depth of information should be explored, aiming for a balance that respects the principles' integrity while enhancing their applicability.
- Clear definitions and explanations of terms such as "regularly" and "high share" would be a good addition to avoid ambiguity and ensure all stakeholders have a common understanding. It would also be useful to define or give examples of the thresholds/time spans referred to in this section.
- There could be practical challenges in describing sustainability concepts precisely due to their inherent complexity and the detailed sustainability framework. This is underscored by the complexity of SFDR disclosures, which often extend to several pages to adequately contextualize sustainability claims.
- The EU's own taxonomy system is a complex framework that demands significant effort from companies to prove their economic activities are sustainable and do no significant harm, and there are difficulties for data required for compliance.
- It is important to be careful about the balance of providing consumers with informative yet not misleading sustainability claims, at the same time avoiding overwhelming detail while considering the audience, data availability, and the frequent revisions of regulations.
- Caution should be exercised by regulators when setting overly strict criteria for identifying greenwashing, which could lead to unfair reputational damage, diminish consumer trust in sustainability, and cause investor apathy towards the sustainability agenda.

Furthermore, below we set out some remarks, with respect to specific paragraphs in the consultation

document:

- Paragraph 3.9: in practice, a given financial products provider may simultaneously have significant new investments in renewables, but still retain a large legacy portfolio in fossil fuels.
- Paragraph 3.8: Consistency and comparability throughout the industry would be facilitated by encouraging providers to match their sustainability claims with accepted “standards, guidelines, or best practices” in sustainability reporting and communication.
- Paragraph 3.17: In order to evaluate a product's suitability for consumers' sustainability preferences, “transparency” is also crucial. It will be more credible and trustworthy to include requirements for transparency and information regarding the process utilized to create sustainability claims (as well as any limitations or uncertainties related to the claims).
- Paragraph 3.21: a neutral and unbiased distribution process should still include information about sustainability issues, given the relative lack of knowledge about sustainable finance among the general public.
- Paragraph 3.25: for long-term products (locked-in over several years due to contractual, regulatory or fiscal reasons), remedial action may be difficult or impossible.
- Paragraph 3.25: To ensure products stay true to their sustainability features and meet consumer preferences throughout their duration, it's important to regularly engage with stakeholders such as investors, customers, regulators, and community groups. This interaction helps providers pinpoint improvement areas and address issues related to sustainability claims more effectively.
- Paragraph 3.27: “External verification” can assist manufacturers in product monitoring, raising the profile of the product to detect significant events and provide additional assurance to stakeholders. Encouraging suppliers to have their sustainability claims externally verified or validated by independent third parties such as auditors, certification bodies or sustainability experts will provide credibility and assurance. However, it is recognised that a practical, proportional, and standardised approach would be required to achieve this.

Q 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?

We agree with Principle 3 and the emphasis on substantiating sustainability claims with due diligence and proportionality whilst maintaining clear reasoning and facts to support sustainability claims.

We note the following observations and remarks:

- Proportionality is important in evaluating sustainability claims, especially due to the complexity and long-term nature of sustainability goals, requiring a balanced approach.
- There is need for greater clarity in differentiating Principle 3 from other principles and for providing context to sustainability claims to enhance transparency and comparability. In particular, there seems to be a conceptual overlap between Principle 3 and Principle 1, indicating scope to merge or simplify the principles.
- There is also scope to define explicitly what constitutes “clear reasoning and facts” within the text of the opinion.
- With respect to paragraph 3.41, back-testing could be used as a potential tool to estimate deviations from stated targets.
- There is inherent difficulty in substantiating long-term commitments like net-zero emissions, which is particularly challenging due to long time horizons and so this supports the need for on-going proportionality in regulatory approaches.
- We would like to highlight the complexity of representing group companies and the interaction between a group and its subsidiaries in making sustainability claims. This area could be covered in a more explicit way.
- There could be other technical challenges such as, for example, the mapping customer preferences to product offerings, especially under the Sustainable Finance Disclosure Regulation (SFDR) categorizations.
- While it is important to maintain a balanced approach and to adhere to proportionality, there is also a need for contextualization of sustainability claims against benchmarks, targets, or industry standards to improve transparency and comparability.

Q 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?

We agree with Principle 4 and the need to ensure that sustainability claims should be understandable and easily accessible by targeted stakeholders.

We would like to highlight the challenge of balancing detailed, technical information with the need for accessibility and avoidance of jargon, an inherent challenge due to the complexity of sustainability issues. More specifically we note the following remarks:

- The complexity and technicality of SFDR poses a challenge in achieving this transparency goal /principle.
- Achieving accessibility and ease of navigation on provider websites can prove challenging given the extensive amount of data underpinning the sustainability claims but also due to diverse technological abilities of end-users. A solution to this problem could be to have a prescribed, standardised one or two-pager similar to other similar templates such as the Product Information Document (PID) or Key Information Document (KID).
- There is a need to consider the provision of information in multiple languages and formats to make it accessible to individuals with disabilities.
- It is also important to consider education and empowerment of stakeholders and to establish feedback mechanisms for stakeholders so that they can have input on sustainability documentation.

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

The long-term benefits, including greater transparency, trust, and alignment with sustainability preferences of consumers, will outweigh the initial costs associated with implementing the principles.

There will be significant initial costs involved, including but not limited to, due diligence, documentation, monitoring, compliance, and the development of sustainability skills within the workforce.

It is possible that the initial costs may discourage insurers to market sustainable products or market them at a higher additional cost. In this respect, you may wish to consider potential ways to mitigate this risk.

The opposite of Greenwashing i.e. 'Greenhushing' could also be explicitly considered. This would be the practice of deliberately underplaying or downplaying of a company's sustainable and environmentally friendly initiatives. Although greenhushing may shield companies against reputation and litigation issues, it prevents transparency, the development of best ESG practices, and the reallocation of capital flows towards a sustainable economy.

Furthermore, to minimise the potential costs, it is important to facilitate an effective use of resources and so supervisory activities should focus on this area and issue clear guidance and follow up on developments and benchmarking at the national level.

Q 7: Do stakeholders have other comments on this draft Opinion?

The EIOPA opinion is very welcome, and we would like to acknowledge its significance in enhancing sustainability practices within the insurance and pension sectors. The principles outlined in the opinion could lead to improved ESG practices and transparency

A common theme in our response is the necessity for proportional implementation of the principles, emphasizing that the complexity of sustainability issues should be balanced with the need for clarity and accessibility in communication.

Proportionality is an important consideration especially in the application of these principles to small businesses where we would expect some concerns in relation to the implementation costs.

We would like to understand further how EIOPA plans to carry out supervision of these principles (considering their broader application) and we would welcome a supervisory update in 1-2 years' time on what progress has been made.

Contact

[Contact Form](#)

