ICI Global Response to Select Questions in
ESAs Call for Evidence on Better Understanding Greenwashing

(Submitted via online questionnaire on 16 January 2023)

Questionnaire

A. ESAs common section of the CfE

1. Possible features of greenwashing

1.1. Core features of greenwashing

This part of the survey enquires about the views of respondents on what can be seen as core characteristics of greenwashing, including[11]:

1) Similarly with the communication of other **misleading** claims there are several ways in which sustainability-related statements, declarations, actions, omissions or communications may be misleading. On the one hand, communications can be misleading due to the omission of information that consumers or investors would need to take an informed transactional or investment decision (including but not limited to partial, selective, unclear, unintelligible, inconsistent, vague, oversimplistic, ambiguous or untimely information, unsubstantiated statements). On the other hand, communications can be misleading due to the actual provision of information, relevant to an informed transactional or investment decision, that is false, deceives or is likely to deceive consumers or investors (including but not limited to mislabelling, misclassification, mis-targeted marketing);

2) Greenwashing can occur either at **entity level** (e.g. in relation to an entity's sustainability strategy or performance), at **product level** (e.g. in relation to products' sustainability characteristics or performance) or at **service level** including advice and payment services (e.g. in relation to the integration of sustainability-related preferences to the provision of financial advice).

3) Greenwashing can be either **intentional or unintentional** (e.g. resulting from negligence or from misinterpretation of the sustainable finance regulatory framework requirement).

[11] This should not be understood as the current view of the ESAs.

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** (e.g. manufacturing, delivery, marketing, sales, monitoring) **or of the investment value chain** (e.g. issuer, benchmark/rating provider, investment firms, etc.).

5) Greenwashing may occur in **specific disclosures required by the EU sustainable finance regulatory framework** (e.g. SFDR Article 9 product-level disclosure requirements). Greenwashing may also occur as a result of **non-compliance with general principles** – as featured either in general EU financial legislation or more specifically in EU sustainable finance legislation (e.g. the requirement to provide information that is fair, clear and not misleading). 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 (e.g. ESG ratings).

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** (e.g., ESG rating providers or third-party verifiers).

7) If not addressed, greenwashing will **undermine trust in sustainable finance markets and policies**, regardless of whether immediate damage to individual consumers or investors (in particular through mis-selling) or the gain of an unfair competitive advantage has been ascertained.

Q A.1: Please provide your views on whether the above-mentioned core characteristics of greenwashing reflect your understanding of and/or experience with this phenomenon and whether you have anything to add/amend/remove.

As the trade association representing global regulated investment funds, we provide answers to the questions from the perspective of regulated funds and the asset managers that manage those funds. ICI Global carries out the international work of the Investment Company Institute, the leading association representing regulated investment funds. With total assets of $36.6 trillion, ICI's membership includes mutual funds, exchange-traded funds (ETFs), closed-end funds, and unit investment trusts (UITs) in the United States, and UCITS and similar funds offered to investors in Europe, Asia and other jurisdictions. ICI's mission is to strengthen the foundation of the asset management industry for the ultimate benefit of the long-term individual investor. ICI Global has offices in Brussels, London, Hong Kong, and Washington, DC.

Millions of retail investors around the world choose regulated funds to save for retirement, education, and other important financial goals. We support robust disclosure that enables these investors to evaluate the many regulated fund offerings to find the best fit for their particular investment goals.

We appreciate that one purpose of attempting to define the term "greenwashing" and its core characteristics is to enable policymakers to identify the conduct or situations they might seek to address to protect investors.

However, the term has developed colloquially and is now used loosely to describe a wide range of very different situations. Moreover, while some view it as addressing only circumstances relating to "green" or environmentally related statements, others use the term to describe statements relating to social or governance matters as well (as the CfE suggests). The broad and inconsistent use of the term "greenwashing" seems to promote more confusion than add clarity and this is not surprising given that one word cannot appropriately reflect such a wide range of circumstances or behavior.

The wide range of circumstances or behavior have different causes as well as consequences. Therefore, we would encourage policymakers to examine precisely these different situations to identify solutions. Seeking to adopt a general definition of greenwashing or enshrine it in legislation would be counterproductive.

We agree that misleading claims due to the provision of materially "false" information or the "omission" of material information is detrimental to investors and can undermine trust in sustainable finance. Rather than seeking to define "greenwashing" and thereby creating a new legal term, we recommend instead that EU authorities describe the conduct or circumstances of concern. In doing so, it can be more apparent that existing EU and national provisions and regulatory frameworks may be used to address the issues. For example, where there is non-compliance with regulatory requirements, including in connection with disclosures that are not "fair, clear and not misleading," regulators should already have adequate supervisory tools they can use to address those circumstances. Where there *is* compliance with regulatory requirements, but there is investor confusion or misunderstanding regarding ESG-related investment strategies, the question should not be whether this constitutes "greenwashing" but, instead, whether there are ways to enhance investor tools, such as through modified disclosure requirements, guidance, or investor education. We recommend that regulators work toward enhancing investor understanding broadly rather than trying to do so through defining a single word to cover complex and diverse situations and activities.

We continue our response to this question in response to Question A.11.1.

Q A.2: Do you have or use a specific definition of greenwashing as part of your activities? If so, please share this definition.

As previously stated, we do not believe that one term can appropriately capture the range of conduct being considered and recommend that the term "greenwashing" not be defined for policymaking purposes. ICI does not use a definition of greenwashing in its activities.

1.2 Dimensions of greenwashing

1.2.1. The potential roles market participants can play in greenwashing

Q A.3: Market participants could potentially play three main different roles (trigger, spreader, receiver) in any given occurrence of greenwashing**.** For instance, a corporate issuer can trigger greenwashing by understating its carbon emissions. This misleading claim could be communicated to both investment managers, ESG data providers and/or other market participants some of whom might continue to spread the misleading claim to the end investors/consumers, who will be the receiver of greenwashing.

Q A.3.1: Do you agree that market participants could be involved in three different ways in greenwashing, as described above?

a) Yes
b) No

Q A.3.2: If no, could you please further elaborate on the roles market participants could play in greenwashing, including on potential alternative or additional roles to the ones identified above?

We generally agree with describing the communication chain by referencing a trigger, spreader and receiver, which acknowledges that the spreader and receiver have very different roles than that of the trigger. The focus should not be on what part of the chain constitutes greenwashing, but rather, how to address the challenges associated with the trigger's provision of incomplete or inaccurate information.

For example, an asset manager's disclosure of data may be incomplete or imperfect, despite its best efforts, because it is based on incomplete data provided by investee companies. This may particularly be the case for an asset manager's products when reporting on alignment with the EU Taxonomy, where a significant part of the portfolio is invested in non-EU companies not subject to the mandatory reporting requirements of the EU Taxonomy. Or, an asset manager may reasonably rely on and use for its own reporting purposes an investee company's carbon emissions reporting. If the investee company's carbon emissions reporting is inaccurate, the focus should be on addressing the investee company's reporting. It is worth noting here that this raises economies of scale considerations: it would be highly inefficient at a macro level if investors would have to second guess or independently verify the investee company's carbon emissions data. In that sense, sustainability data should be treated no differently than financial data. By analogy, financial analysts may rely on financial data reported by companies to determine buy/sell recommendations. Those financial analysts are not held responsible for relying on financial data disseminated by a company that subsequently is determined to be inaccurate.

1.2.2 The topics of sustainability-related claims

Another dimension of greenwashing is the topic of a given sustainability-related claim, which can be grouped into 3 broad topics. These can be applicable to various sectors across the sustainable value chain and can be cross-cutting at entity- and product-level. However, this does not mean that all of these 3 categories necessarily lead to greenwashing in all sectors. Moreover, it is important to note that one given claim can fall under several topics, for instance an entity making claims about targeting positive impact on climate change can be split into its actual strategy around creating positive impact (falling under Topic 2), its governance around monitoring and implementing this strategy including dedicated staff composed of impact analysts (Topic 1), while the actual metrics referenced to measure the impact would fall under Topic 3. Furthermore, greenwashing can occur in relation to an isolated claim about one of the topics listed below or it may relate to a combination of claims which in aggregate constitute greenwashing.

- Topic 1: Claims about an entity's governance and remuneration around ESG and about an entity or a product's dedicated resources to sustainability matters:

i. Board and senior management's role in sustainability [12]
ii. ESG corporate resources and expertise [13]

- Topic 2: Claims about the sustainability strategy, objectives, characteristics or qualifications of a product, an entity, or a service:
  i. ESG strategy, objectives, characteristics [14,]
  ii. Sustainability management policies [15]
  iii. ESG qualifications / labels / certificates [16]
  iv. Engagement with stakeholders [17]
- Topic 3: Claims about sustainability-related metrics based on historical data or future targets:
  i. ESG performance to date (including metrics for impact claims) [18]
  ii. Pledges about future ESG performance (ESG targets, including net-zero commitments; transition plan, taxonomy alignment plans)

[12] Topic 1 is mostly relevant for claims made at entity-level. At entity level, topic 1 is meant to cover claims about an organization's governance contribution to sustainability matters (for instance: claims about Board members' sustainability-related expertise and qualifications, claims about the Board's role in sustainability strategy approval, claims about the incorporation of sustainability into senior management performance appraisal or remuneration, etc.). At product-level, one example would be: a claim about a manufacturer's integration of sustainability into firmwide policies that is included into financial products communications."

[13] For example, claims about dedicated ESG staff, training offered by the entity to the staff, ESG credentials of dedicated ESG staff (certifications held/completed, no. of years of experience in ESG); access to ESG data-various ESG data providers specific to entity and/or to certain products

[14] For instance, integration of sustainability in an entity's or product/service's strategy, characteristics, objectives, taking into account clients' sustainability preferences. Some relevant cases in point would be: for funds: current ESG strategies (best in class, exclusions), how financially material ESG factors are identified and integrated in the investment and product design process, environmental and/or social characteristics promoted, sustainable objectives promoted, as well as classifications summarizing the strategy (e.g SFDR Art.6/8/9
, Climate benchmarks), For sustainable products offered under MiFID II like sustainability-linked bonds (SLBs), derivatives (SLDs), sustainability improvement loans (SIIs): environmental and/or social characteristics promoted by the KPIs linked to the bond/derivative/loan/security. For products with sustainability features sold under IDD like IBIPs environmental and/or social characteristics promoted by the KPIs linked to the underlying investments and/or the investment strategy of the company. For insurers this, in addition, also includes this includes the business strategy, statements made in transition plans and commitments to aligning their underwriting and investment portfolios with net zero emissions by a certain date, sometimes in conjunction with joining initiatives such as the Net Zero Insurance Alliance. For banks, this includes the business strategy, statements made in transition plans and commitments to aligning their lending and investment portfolios with net zero emissions by a certain date, sometimes in conjunction with joining initiatives such as the Glasgow Financial Alliance for Net Zero (GFANZ).

[15] For instance, all claims regarding an entity or product's policy on sustainability including the consideration or management of ESG risk or consideration or management of ESG impact these claims can be communicated via any type of channel or document, including in firmwide or product-level policies

[16] Adherence to (voluntary) reporting frameworks, labels, ratings, awards, certifications; For green bonds: certifications like by specialized organizations with established frameworks for assessing green bonds~~,~~ ratings by approved green bond verifiers, mentions of inclusion in ESG/green bond benchmarks

[17] Examples would include claims on engagement priorities, what engagement methods are used, active engagement activities at entity or product level, voting on climate and social issues, how engagement is integrated in the investment decision process, etc.

[18] Relevant cases in point would be metrics based on backward looking data, in the form of ESG or impact metrics (carbon intensity, gender diversity ratios, SFDR PAIs, ESG ratings, SDG alignment scores, internal impact scores,).

Q A.4: Please indicate the degree to which you consider each topic described above, as prone to the occurrence of greenwashing. Please provide a score from 1 to 5 (where 1 = very low occurrence ; 2 = low occurrence ; 3 = neutral ; 4 = high occurrence ; 5 = very high occurrence).

a) Board and senior management's role in sustainability (Topic 1, i)
b) ESG corporate resources and expertise (Topic 1, ii)
c) ESG strategy, objectives, characteristics (Topic 2, i)
d) Sustainability management policies (Topic 2, ii)
e) ESG qualifications / labels / certificates (Topic 2, iii)
f) Engagement with stakeholders (Topic 2, iv)
g) ESG performance to date (including metrics for impact claims) (Topic 3, i)
h) Pledges about future ESG performance (ESG targets, including net-zero commitments; transition plan, taxonomy alignment plans) (Topic 3, ii)

Q A.4.1: Please specify the underlying drivers of greenwashing in relation to the topics you scored higher.

Whether a statement is materially misleading depends on the particular facts and circumstances and, depending on those facts and circumstances, could relate to the topics listed. Moreover, any such materially misleading statements may be addressed through current supervisory provisions.

Q A.5: For the same list of topics listed in the previous question, please provide a score from 1 to 5 on the potential harm/impact of a misleading claim made on that topic (where 1 = very low impact ; 2 = low impact ; 3 = neutral ; 4 = high impact ; 5 = very high impact).

a) Board and senior management's role in sustainability (Topic 1, i)
b) ESG corporate resources and expertise (Topic 1, ii)
c) ESG strategy, objectives, characteristics (Topic 2, i)
d) Sustainability management policies (Topic 2, ii)
e) ESG qualifications / labels / certificates (Topic 2, iii)
f) Engagement with stakeholders (Topic 2, iv)
g) ESG performance to date (including metrics for impact claims) (Topic 3, i)
h) Pledges about future ESG performance (ESG targets, including net-zero commitments; transition plan, taxonomy alignment plans) (Topic 3, ii)

Q A.5.1: Please explain what types of impacts or harm and their consequences you anticipate as a result of greenwashing practices.

Misleading claims due to the provision of materially false information or the omission of material information is detrimental to investors and can undermine trust in investment products and the markets.

Q A.6: In addition to the three topics and eight sub-topics above, do you identify any additional topics which would be relevant to potential greenwashing issues?

a) Yes
b) No

Q A.6.1: If yes, please provide below more information on your answer including, if possible, a short example.

Q A.7: Please indicate below if you have any additional comments regarding the relevance of the above topics on which sustainability-related claims are made in the context of a given sector or entity.

1.2.3 The way in which a claim can be misleading

Q A.8: On a scale from 1 (i.e. "not relevant") to 5 ("very relevant"), please indicate the extent to which you find each of the misleading qualities of a sustainability-related claim listed below relevant to greenwashing practices.

a. Selective disclosure or hidden trade-off (cherry-picking positive information and/or omitting relevant negative information);
b. Empty claims (exaggerated claims and/or failure to deliver on such claims);
c. Omission or lack of disclosure;
d. Vagueness or ambiguity or lack of clarity;
e. Inconsistency across various disclosures and communications (marketing, regulatory, website, etc.);
f. Lack of fair and meaningful comparisons, thresholds, scenarios and/or underlying assumptions;
g. No proof (unsubstantiated);
h. Misleading /Suggestive non-textual imagery and sounds (including the use of specific colours like green);
i. Irrelevance;
j. Outdated information
k. Misleading / suggestive use of ESG-related terminology (naming-related greenwashing).
l. Outright lie (falsehood);

Q A.8.1: Please provide further comments to the identified misleading qualities of communication in the context of greenwashing. In particular, should any of the qualities be added, amended or deleted from the list and if so, why?

As previously stated, whether a statement is materially misleading depends on the particular facts and circumstances and must be evaluated on a case-by-case basis.

Some of the circumstances listed in the question (selective disclosure, omission or lack of disclosure, and vagueness or ambiguity or lack of clarity) raise the question of the consequence of omitting information. Depending on the facts and circumstances, the omission of material information could be materially misleading. For example, it could be materially misleading to omit certain material facts necessary to make a statement, in light of the circumstances under which it was made, not misleading.

Whether a communication is vague or lacks clarity is a subjective judgment. For example, funds explain in their disclosure documents the investment strategies they follow. Some may prefer more detail while others find that lengthy and detailed disclosures distract, rather than promote, investor understanding. Instead of addressing such questions through labels like "greenwashing," it is better for policymakers to consider how to use the current regulatory disclosure framework to promote investor understanding.

Regarding a fund's name, it is important to recognize that the name of a fund is one of many tools for communicating with investors, and investors should not place, nor should policymakers push, undue reliance on a fund's name. Logically, a fund's name – given reasonable limits in length – must be read in conjunction with other important, more detailed, information about a fund's investment objectives and strategies, fees and expenses, performance and other matters of importance to investors. We caution against any regulations or guidelines that would encourage excessive reliance on fund names instead of promoting understanding of a fund through its more detailed disclosures.

1.2.4 Which communication channel

Another dimension of greenwashing is represented by the channels through which sustainability-related claims are communicated to other actors in the sustainable value chain.

These channels include, but are not limited to, the following: (1) Regulatory documents (including Key Investor Documents or Key Information Documents (KIDs), prospectuses, financial statements, management reports, non-financial statements, benchmark statements and methodology documents, insurance—product information documents, pension benefit statements, etc.) or regulatory disclosures, (2) Ratings[19]/benchmarks/labels, (3) Product information (including internal classifications and internal target market, product testing and distribution strategy related documentation), (4) Intermediary/advice information, (5) Marketing materials (including website, social media), (6) Voluntary reporting, falling outside previous categories as reported on a voluntary basis.

Q A.9: Regarding the above dimension and the list of channels through which misleading claims can be communicated to other segments of the sustainable value chain, please indicate the likelihood that a given channel serves to communicate misleading sustainability claims made at entity level and/or at product/service level. Please score each channel from 1 (rather unlikely) to 5 (very likely):

a) Regulatory documents (including Key Investor Documents or Key Information Documents, Prospectuses, Financial statements, Management Reports, Non-Financial Statements, Benchmark statements and methodology documents, insurance-product information documents, pension benefit statements, etc.) and/or any mandatory disclosures,
b) Ratings (ESG ratings and/or other ESG data products),
c) Benchmarks,
d) Labels,

e) Product information (including internal classifications, and internal target market, product testing and distribution strategy related documentation),
f) Intermediary/advice information,
g) Marketing materials (including website, social media, advertising)
h) Voluntary reporting, falling outside previous categories as reported on a voluntary basis,
i) Other (please specify).

Q A.9.1: Please indicate below if you have any comments regarding the communication channels of potentially misleading sustainability-related claims?

As previously stated, whether a statement is materially misleading depends on the particular facts and circumstances.

1.2.5 At which stage of the lifecycle and where in the business model/management does greenwashing occur

In addition to the different channels of transmission of claims, greenwashing can also occur at various stages of the product lifecycle, including: the product manufacturing stage (product development, product design, market targeting), the product delivery stage (marketing, product-related disclosure, distribution, sales), the product management stage (product monitoring/review, ongoing product-related disclosure). Beyond the product lifecycle, greenwashing can occur at the entity-level: in the business model (value chains, group structures, innovation and technology, outsourcing) or in the business management (culture, governance arrangements, systems and processes).

Q A.10: For each of the stages of product lifecycle and with regard to the business model and management, please indicate the likelihood of the occurrence of greenwashing. Please provide scores ranging from 1 (rather unlikely) to 5 (very likely):

a. Product manufacturing
b. Product delivery – marketing: advertisements, non-regulatory information
c. Product delivery – regulatory disclosure
d. Product delivery – distribution channels
e. Product delivery – sales: information asymmetry (this includes under or over emphasis of certain product features)

f. Product delivery – sales: misselling due to misleading information/disclosure

g. Product delivery – sales: misselling due to unsuitable product

h. Product delivery – sales: incentives at point of sale

i. Product management – product monitoring, product review, ongoing product disclosure
j. Business model at entity level – value chain, group structure, innovation/digitalization, outsourcing
k. Business management at entity level – culture, governance arrangements, systems and processes

Q A.10.1: Please indicate below if you have any comments on the above question.

As previously stated, whether a statement is materially misleading depends on the particular facts and circumstances.

1.2.6 Further considerations

Q A.11: Are there any relevant elements or features of greenwashing which have not been referenced in the questions above?

a) Yes
b) No

Q A.11.1: If yes, please provide below more information on your answer including, if possible, a short illustration:

We continue our response to Question A.1 below.

We illustrate below several examples of situations which some commentators or media have associated with greenwashing.

Take, for example, an environmentally focused fund that has an investment strategy to invest in what it describes as “best in class” companies across all sectors, including companies that are transitioning, and thus may hold fossil fuel companies. Certain stakeholders may believe that this investment strategy does not sufficiently promote “green” objectives or is not being managed aggressively enough toward a net zero carbon emissions goal (even though that is not a strategy of the fund). Or, an individual investor may incorrectly assume that the fund would exclude fossil fuel companies because of its environmental focus, even though the fund’s disclosure documents indicate that it could invest in transition and best-in-class companies in the fossil fuel sector. The lack of alignment between a fund’s strategy and a particular stakeholder’s personal views raises the question of whether there are ways to enhance understanding about the variety of environmentally focused investment strategies funds may offer under the EU’s ESG framework and that there is no one “right” approach.

Another example is an asset manager's disclosure of data that may be incomplete or imperfect, despite its best efforts, because it is based on incomplete data provided by investee companies. See our response to Question 3.A.2.

There are also challenges emerging through the evolving and different interpretations of key EU regulatory concepts. Financial market participants (FMPs) have faced a fast-moving regulatory landscape and, in some cases, even after regulations are adopted, questions and confusion can persist regarding their interpretation and application. We note that the ESAs have asked the European Commission to address frequently asked questions in connection with SFDR interpretations and continue to seek guidance on interpretative matters. See, e.g., European Commission answers in July 2021 and in May 2022 and ESAs' questions submitted in September 2022. Sometimes, an announced interpretation by a regulator requires an FMP to change its interpretation, which may also mean making changes to its product offerings (such as changing the disclosure framework applicable to a fund from Article 9 to Article 8). Making these changes in response to new interpretive guidance is appropriate and, rather than questioning whether previous interpretations fall under a label like "greenwashing," the focus should be on promoting clarity of regulatory requirements for the benefit of FMPs and the investors they serve.

Finally, reporting of some data points or information can be based on different approaches to methodologies, assumptions, and estimates, consistent with disclosure requirements. For example, while financial information is often backward looking and can be observed, some sustainability-related data points, such as scenario analysis, will be forward looking and based on assumptions and hypotheses about the future over which it is possible to debate and disagree. Rather than questioning whether one entity's approach that differs from another's approach constitutes greenwashing, we believe the more appropriate focus should be on promoting investor understanding of the information, including the potential for different approaches. It is valuable to encourage efforts to continue to develop and improve methodologies for such reporting rather than stifling such work through unhelpful and confusing labels like "greenwashing."

F. <u>ESMA section of the CfE</u>

The ESMA-specific section of the survey below covers questions relevant to entities and products under ESMA's remit.

All financial market participants and issuers under the remit of ESMA are invited to provide answers to this section. Other stakeholders ranging from retail investors and consumers associations to NGOs and academia are also invited to participate to the extent the views and expertise provided are relevant to ESMA's activities.

1. Understanding the drivers and the scale of greenwashing risks

As stated previously, the drivers of greenwashing are multifaceted and better understanding them is critical to addressing the issue.

F.1. Which of the elements listed below, do you consider to be the main driver(s) of greenwashing risks? Please provide a short explanation of your answer: [multiple answers allowed]

a) New / innovative ESG products in rapidly evolving ESG markets

b) Entry of new participants such as issuers of ESG products, ESG rating or data providers, etc.

c) Lack of ESG expertise and skills of market participants

d) A rapidly evolving regulatory framework

e) Differing interpretations of the regulatory framework

f) Desire to exaggerate the sustainability profile at entity/product or service level

g) Competition (wanting to be better than a comparable issuer/product)

h) Lack of reliable data

i) Mismatch between retail investors' expectations and market participants' ability to deliver real-world impact

j) Financial literacy

k) Other, please specify: ___________________________________

As we previously stated, it is important to rely on existing regulatory frameworks to address concerns rather than seek to define them all under the broad label of "greenwashing." See our responses to questions A.3.2 and A.11.1 for discussions of the challenges relating to the evolving markets and regulatory frameworks for ESG-related investing, lack of reliable data, investor expectations, and financial literacy.

Through the questions below, we seek to better understand which ESG aspect(s), which segment(s) of the sustainable investment value chain, and which asset class(es) or product category(ies) may be more prone to greenwashing risks, in relative terms.

F.2. As stated before, this CfE uses the term greenwashing broadly, covering sustainability-related claims relating to all aspects of the ESG spectrum. While the sustainable finance legislation gives more prominence to environmental aspects, we would like to understand which aspects of the ESG spectrum may be more prone to greenwashing risks, at this stage? Please rate the three aspects below from 1 to 5 (where 1 = very low occurrence ; 2 = low occurrence ; 3 = medium occurrence ; 4 = high occurrence ; 5 = very high occurrence [multiple choice]

a) Environmental aspects

b) Social aspects

c) Governance aspects

F.3. Greenwashing may apply to claims at both entity- and/or product-level (including service-related). Based on your experience, we would like to understand which level may be more prone to greenwashing risks in various sectors. For each of the market segments listed below,, please select one of the four options, then please provide a short explanation.

Greenwashing practices are …	1) more likely at entity-level	2) more likely at product/service-level	3) equally likely at entity and product/service levels
Investment managers[22]			
Investment firms[23]			

[22] For Investment Management, entity-level claims refer to claims made by asset managers under the scope of SFDR. Product-level claims refer to claims regarding investment products like investment funds.

[23] For investment firms, entity-level claims refer mostly to claims made by product distributors and manufacturers. Product-level claims refer to claims regarding: a) products: all financial instruments (within the meaning of Article 4(1)(15) of MiFID II) (b) services: portfolio management and investment advice.

Issuers [24]			
Benchmarks administrators[25]			
Other			

Please provide your explanation below

As previously stated, whether a statement is materially misleading is dependent on the particular facts and circumstances.

F.4. For market segments which you see as more prone to greenwashing risks, please provide below any quantitative or qualitative data (and relevant links) you may have and that could help inform our understanding of the scale and frequency of potential greenwashing practices. You may also upload files if relevant in the next field.

F.5. With regards to product-level sustainability-related claims, we want to better understand which asset classes, financial products categories may be more prone to greenwashing risks. For each of the asset classes and/or financial products regarding which your expertise is relevant, please provide a score from 1 to 5 (where 1 = very low occurrence ; 2 = low occurrence ; 3 = medium occurrence ; 4 = high occurrence ; 5 = very high occurrence of greenwashing). [multiple answers allowed]

q) Equity (common shares, other equity instruments)

r) Fixed income (green Bonds, Social Bonds and other Use of Proceeds (UoP) bonds, Sustainability-linked bonds, Common corporate bonds, Common government bonds or other fixed income securities)

s) Derivatives (ESG derivatives including those with an ESG underlying and with an ESG performance target, other derivatives)

t) Alternative investments (infrastructure, private equity)

[24] For Issuers' disclosure and governance, entity-level claims refer to claims made by issuers under the scope of NFRD, the upcoming CSRD and/or the Taxonomy Regulation (TR). Product-level claims relate to financial securities and instruments that fall under the remit of ESMA.

[25]For Benchmarks, entity-level claims refer to claims made by benchmark administrators. Product-level claims refer to claims regarding benchmarks.

u) Funds: UCITS funds and AIFs (excluding ETFs), ETFs, Private Equity funds or other funds (e.g. Hedge Funds, ELTIFs);

v) Benchmarks: Paris-aligned (PAB), Climate transitioning (CTB) Climate Benchmarks, other climate benchmarks or ESG benchmarks

w) Other MiFID II instruments (e.g. securitisations)

x) Other products/services (please specify)

F.6. Greenwashing practices can be transmitted over more than one segment of the sustainable finance value chain. Various options are described below representing various greenwashing transmission trajectories of sustainability-related claims, where the first entity is always the trigger with subsequent entities being either in the role of spreader and/or receiver of claims. Based on you experience, we would like to understand which transmission trajectory may be more prone to greenwashing risks. Please provide a score for each transmission trajectory listed below from 1 to 5 (where 1 = very low occurrence ; 2 = low occurrence; 3 = medium occurrence; 4 = high occurrence; 5 = very high occurrence [multiple answers allowed] (multiple responses possible)

a) Issuer X-Issuer Y[26]-Investor or benchmark administrator

b) Issuer- Benchmark Administrator-Investment manager - Investor

c) Benchmark administrators-MiFID II manufacturer (e.g. ETF provider)-Investment manager-investor

d) Benchmark administrators- Investment manager-Investor

e) Investment manager-Institutional Investment managers-[27]Investor

f) Investment manager-MiFID II Distributor (e.g. Investment firm) -Retail Investor

g) ESG rating provider-Investment manager-Investor

h) ESG rating provider-benchmark administrator -Investor

[26] At entity-level Issuer Y might be claim to engage with its suppliers/stakeholders (e.g. including Issuer X) about a given E or S topic like Minimum Social Safeguards (e.g. Human Rights/ Child Labour violations). Assuming Issuer X makes misleading claims about this topic, these claims about Issuer Y can thus be spread by Issuer X

[27] The institutional investment managers could select the first asset manager as an underlying investment in their products (e.g. fund of

funds), which are then sold to final investors

i) Issuer-Investment manager -Investor

j) Issuer - MiFID II Distributor (e.g. Investment firm) -Retail Investor

k) Other

F.6.1 If the answer was k) other, please specify:

2. Consideration of greenwashing risks by financial market participants and issuers

It appears that some industry players already perceive greenwashing as a source of potential risks for their own development and performance and have started to take action with the view to mitigate such risks. The following section seeks to collect insights on how financial market participants and issuers perceive greenwashing and take action to address the issue at their level.

F.7. Does your organisation perceive greenwashing as a potential source of risk?

a) Yes, and we have started developing a structured approach to tackling the issue

b) Yes, but we have not yet developed a structured approach to the issue

c) No

d) Other, if so specify

F.7.1. If you answered a) or b) to Q7: what category of related risks do you anticipate could result from greenwashing issues? [multiple answers allowed]

a) Financial risks

b) Reputational risks

c) Legal risks

d) Other, if so specify

F.7.2. If you answered a) or b) to Q7: what types of potential negative impacts do you anticipate as a result of greenwashing issues?

F.7.3. If you answered a) to Q7: What safeguards / risks mitigants have you (or are you planning to) put in place to address greenwashing risks?

F.8. Do you know of any industry initiative that could be instrumental in tackling greenwashing?

We note that ICI has long promoted enhancing investor understanding of sustainable investing strategies. In light of varied and evolving ways that funds described their sustainable investing strategies and to promote understanding by investors, market participants, regulators, and others, ICI published in 2020 *Funds' Use of ESG Integration and Sustainable Investing Strategies: An Introduction* (https://www.ici.org/system/files/attachments/20_ppr_esg_integration.pdf) which encourages funds to use consistent terminology to describe ESG strategies in their public communications. In addition, to promote investor understanding of ESG investing, ICI also has published *ESG and Funds: Frequently Asked Questions* (https://www.ici.org/system/files/2022-02/22-esg-faqs.pdf) and *Understanding Sustainable Funds: A Disclosure Guide* (https://www.ici.org/system/files/2022-02/22-sustainable-fund-roadmap.pdf). We recommend that regulators work toward enhancing investor understanding broadly rather than trying to do so through defining a single word to cover complex and diverse situations and activities.

F.9. Which do you think are the market mechanisms that can help mitigate greenwashing risks (e.g. reputational issues) and how do you believe supervisors can help in this respect?

F.10. What could policymakers and regulators do more to alleviate greenwashing risks?

As we stated at the beginning of our response, it is important to leverage existing regulations and standards rather than try to define the broad and changing umbrella of "greenwashing." In addition, when considering whether additional regulations or guidance is necessary, the guidepost should be policies that promote investor understanding. For example, informative and useful disclosure does not necessarily mean very granular and detailed information, which could detract, rather than enhance, retail investor understanding and can increase costs that ultimately may be borne by investors. In addition, investors would not be well served by regulatory policies that over-emphasize a fund's name for conveying relevant information, which cannot provide investors with such important information as the fund's investment objectives, strategies, and risks.

We encourage policymakers to work toward a better alignment of the different regulatory frameworks for sustainable finance and a better sequencing of new provisions. As policymakers evaluate current regulatory requirements and consider potential changes or guidance, we welcome the opportunity to provide input and insights from the perspective of regulated funds and their asset managers. Our members serve millions of retail investors, who choose regulated funds to save for important financial goals and can provide important perspectives on these matters.