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FCA consults on new UK Sustainability Disclosure Requirements

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On 25 October 2022, the United Kingdom's Financial Conduct Authority ("**FCA**") published a consultation paper (CP22/20) on Sustainability Disclosure Requirements ("**SDR**") and investment labels (the "**Consultation**").

The Consultation follows last year's discussion paper (DP21/4) and is a long-awaited step in the process for the United Kingdom to develop its own ESG disclosure regime following the roll out of the EU's Sustainable Finance Disclosure Regulation ("**SFDR**"). In combination with the UK Green Taxonomy that is in process, this forms an important part of the post-Brexit push towards a standalone ESG regulatory framework (please refer to our separate note here on the UK Green Taxonomy).

Like the SFDR, the SDR seeks to ensure accurate representation of financial products that claim to be sustainable, by introducing labelling and disclosure requirements. Specifically, the FCA is proposing to introduce:

- three distinct sustainable investment product labels:
  - **sustainable focus** (products with an objective to maintain a high standard of sustainability in the profile of assets by investing to (i) meet a credible standard of environmental and/or social sustainability; or (ii) align with a specified environmental and/ or social sustainability theme);
  - **sustainable improvers** (products with an objective to deliver measurable improvements in the sustainability profile of assets over time. These products are invested in assets that, while not currently environmentally or socially sustainable, are selected for their potential to become more environmentally and/or socially sustainable over time, including in response to the stewardship influence of the firm); and
  - **sustainable impact** (products with an explicit objective to achieve a positive, measurable contribution to sustainable outcomes. These are invested in assets that provide solutions to environmental or social problems, often in underserved markets or to address observed market failures).

- restrictions on how certain sustainability-related terms – such as ‘ESG’, ‘green’ or ‘sustainable’ – can be used; and
- disclosure requirements – both consumer-facing and more detailed for institutional investors.

The proposals within the Consultation currently focus on UK authorised asset managers including UK AIFMs and UK firms carrying out portfolio management (which may also encapsulate certain investment advisers who provide advice in relation to private equity funds on an ongoing basis) and their UK based products / portfolio management services. The FCA has stated, however, that it intends to expand the regime over time and there are already wider anti-greenwashing rules that will be applicable to all UK regulated firms. Overseas products are not in scope yet, but the regime may be extended to include these in the future.

The Consultation is open until 25 January 2023 and the FCA intends to publish its final rules by the end of the first half of 2023.

Related Professionals

- **John Verwey**
  Partner
- **Michael Singh**
  Associate
- **Sulaiman I. Malik**
  Associate