CLIFFORD

CHANCE

UK ASSET MANAGERS FACE NEW RULES TO CLAMP DOWN ON 'GREENWASHING' – A NEW REGULATORY REGIME FOR SUSTAINABILITY LABELS AND DISCLOSURES

DECEMBER 2022

UK ASSET MANAGERS FACE NEW RULES TO CLAMP DOWN ON 'GREENWASHING' – A NEW REGULATORY REGIME FOR SUSTAINABILITY LABELS AND DISCLOSURES

The UK Financial Conduct Authority (FCA) is consulting on new rules to clamp down on 'greenwashing' by increasing the transparency around the sustainability credentials of investment products. The proposed rules are contained in its **Consultation Paper** on Sustainability Disclosure Requirements (SDR) and investment labels, which set out a specific labelling and disclosure regime that builds upon its November 2021 **Discussion Paper** on this topic.

This briefing focuses on the proposed requirements for asset managers and how these differ from similar rules in the EU and the US. We outline the scope and implementation timetable of the new regime, before discussing the key issues that are likely to arise for UK asset managers, particularly those with US and EU businesses.

The box below shows the key features of the SDR regime, which are outlined in more detail in the Annex to this briefing.

Key points

- The FCA is proposing new rules to tackle 'greenwashing' by increasing the transparency around the sustainability characteristics of investment products.
- There are proposed requirements for sustainability product labels, disclosures and rules on the naming and marketing of investment products.
- UK asset managers are the primary focus of the new regime, with plans for future expansion to include other products marketed to retail investors, such as pension and insurance-based products, financial advisers and listed issuers and overseas products.
- The consultation period ends 25 January 2023.
- Final rules expected mid-2023.
- Key elements of SDR regime proposed to apply from mid-2024.

1. Scope

The scope of the SDR regime is shown in the box below.

In-scope firms	'Sustainability in-scope business' carried out in the UK
Any firm	Portfolio management*
UK UCITS Management Companies	Managing a UK UCITS
Investment Companies with Variable Capital (ICVCs) (UCITS schemes without a separate management company)	Managing a UK UCITS
Full Scope UK AIFM	Managing an AIF
Small Authorised UK AIFM	Managing an AIF

In-scope 'sustainability products'
An authorised fund, excluding feeder funds
An unauthorised AIF managed by a UK AIFM
Portfolio management services*

**Portfolio Management*

In ESG, a service provided to a client including:

- *managing investments; or*
- *private equity or other private market activities consisting of either advising on investments or managing investments on a recurring or ongoing basis in connection with an arrangement,*
  the predominant purpose of which is investment in unlisted securities.

There are nuances in the application of the SDR depending on whether, for example, the product is using an investment label and/or whether it is being made available to retail investors, with specific rules for firms providing portfolio management services. There are also additional rules for distributors and the anti-greenwashing rule captures all regulated firms.

2. The proposed rules

The proposed rules are in the following areas:

- sustainable investment labels to enhance trust and help consumers navigate the market for sustainable investment products;
- consumer-facing disclosures to help consumers understand the key sustainability-related features of an investment product;
- detailed disclosures, aimed at a wider audience (institutional and retail investors seeking more information) which will include pre-contractual and on-going sustainability-related information at product and entity level;
- naming and marketing rules;
- requirements for distributors[1]; and
- a general 'anti-greenwashing' rule applicable to all regulated firms.

Sustainable Investment Labels

The FCA plans to introduce three sustainable investment labels to help investors distinguish between products based on their sustainability characteristics, themes and outcomes, the aim being to enhance trust in the sustainability credentials of a product.

Sustainable Focus	Sustainable Improvers	Sustainable Impact
Products that aim to invest in assets that are environmentally and/or socially sustainable.	Products that aim to improve the environmental and/or social sustainability of assets over time.	Products that aim to invest in solutions to environmental or social problems, to achieve positive, real-world impact.

There is no hierarchy between the proposed categories and each category is intended to be mutually exclusive. Products qualifying for a sustainable investment label must meet:

- Five overarching principles ('general criteria') covering: (i) sustainability objective; (ii) investment policy and strategy; (iii) key performance indicators; (iv) resources and governance; and (v) investor stewardship;
- A number of key 'cross cutting' considerations associated with each of the five overarching principles; and
- Certain category-specific key considerations relevant to the particular label.

1. Not covered in this briefing

Details of the overarching principles and associated key considerations are set out in Chapter 4 and Appendix 1 of the Consultation Paper. The FCA has also developed guidance to help firms implement the criteria, which it is proposing to introduce as non-Handbook guidance, as set out in Appendix 2 of the Consultation Paper.

There is no obligation for firms to label their products, but any products that are not labelled must comply with the proposed naming and marketing rules (discussed below). Although the labels are primarily aimed at retail investors, firms can also label their products offered to institutional investors. A firm that uses a sustainability label must notify the FCA within one month via a dedicated mailbox to be made available for this purpose.

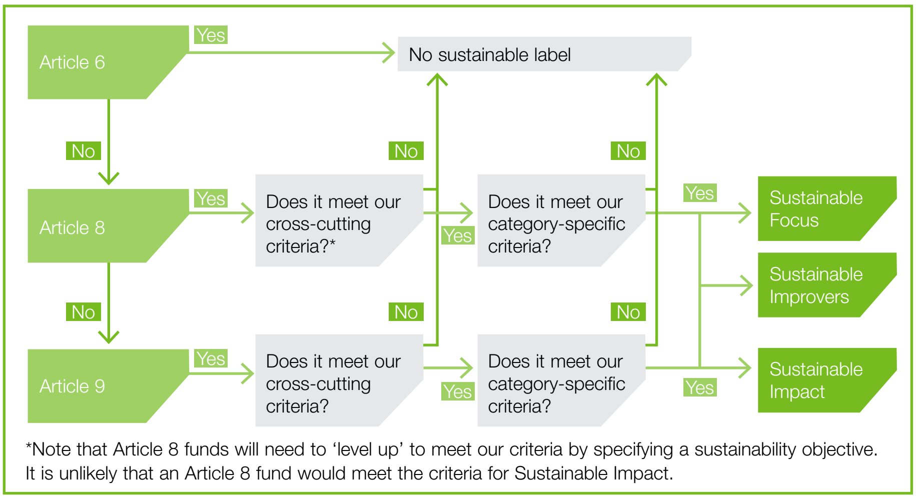
The FCA recognises that UK asset managers may also be subject to similar product classification regimes, such as the EU Sustainable Finance Disclosure Regulation (SFDR) in respect of their European business and/or the proposed Securities and Exchange Commission (SEC) disclosure rules in the US (see boxes below) both of which have a similar scope to the SDR regime. Firms in this position will therefore need to determine how their products are categorised under the SFDR and under SEC proposals and how these 'map across' to the SDR classifications.

SFDR Categorisation	
Article 6	Funds that do not integrate sustainability into the investment process.
Article 8	Funds that promote, among other characteristics, environmental or social characteristics, or a combination of those characteristics, provided that the companies in which the investments are made follow good governance practices.
Article 9	Funds that have sustainable investment as their objective.

SEC Categorisation	
Integration	Funds that integrate ESG factors alongside non-ESG factors in investment.
ESG-Focused	ESG factors are a significant or main consideration.
Impact	A subset of ESG-Focused Funds that seek to achieve a particular ESG impact.

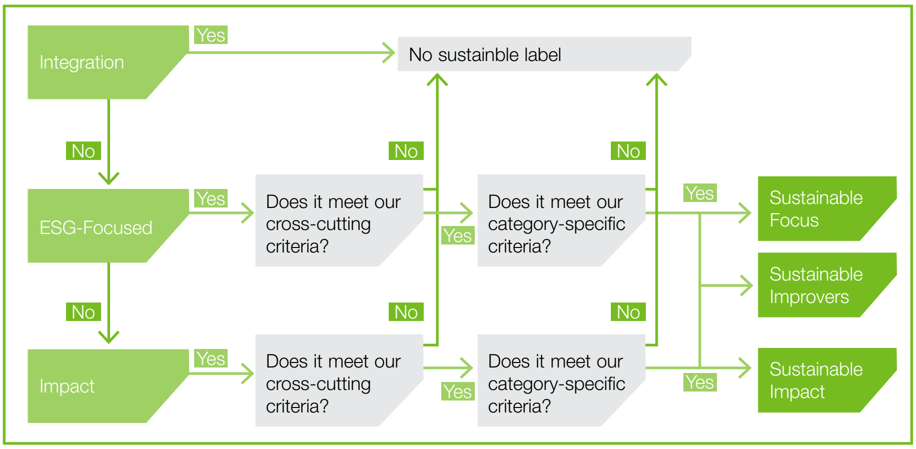
The FCA outline the steps firms need to take to make this determination which are set out in the boxes below.

FCA's view on how SFDR should be mapped on to SDR
Is your product:



Source: Financial Conduct Authority.

FCA's view on how SEC should be mapped on to SDR
Is your product:



Source: Financial Conduct Authority.

Sustainability Disclosures

Various layers of disclosures are proposed, to help consumers understand the key sustainability-related features of a product. These disclosures are a starting point and the FCA intends to develop its rules and guidance over time.

Consumer-facing disclosures

Consumer-facing disclosures	
Proposal	For consumer-facing disclosures that complement the sustainable investment labels and help retail investors understand the key sustainability-related features of a product.
Location	A prominent place on the relevant digital medium for the firm (e.g. main product webpage). The disclosures must be made in a standalone document that appears alongside documents that present other key investor information.
Scope	All in-scope firms must produce a consumer-facing disclosure for all in-scope products (see section 2: Scope for more information on in-scope firms/products). Firms providing portfolio management services do not have to produce their own disclosures but must provide an index of the underlying funds including the label and links to the funds' consumer-facing disclosures, as applicable.
Format	There will be no template at this stage, to avoid being too restrictive. The FCA encourages the industry to develop a market-led template in due course. In the meantime, the disclosures must be clear and concise, in a format suitable for consumers, and not exceeding two pages of A4 when printed.
Content	The consumer-facing disclosures are intended to act as a summary of the detailed product-level disclosures. Firms must make the following categories of disclosure: (i) basic information; (ii) product label; (iii) sustainability goal; (iv) sustainability approach; (v) unexpected investments; (vi) sustainability metrics; and (vii) signposting to other disclosures.
Frequency	The first consumer-facing disclosures must be made available (provisionally) from 30 June 2024. The disclosures must be reviewed and updated at least annually thereafter and remain consistent with the label that the product is using. In addition, firms must review the disclosures prior to any proposed changes to the product and revise them if necessary. If the disclosures are revised, firms must, at least 60 days before the change takes effect: (i) notify investors; and (ii) publish an updated version of the disclosure, in both cases with an explanation of why the change has been made.

Consumer-facing disclosure under SDR is required notwithstanding requirements under SFDR.

Detailed Product and Entity Disclosures
In some instances, detailed disclosures will be required, targeted at a wider audience, including institutional investors and retail investors seeking more information. This level of detailed disclosure includes:

- product-level disclosures in pre-contractual materials;
- periodic product-level disclosures in a sustainability product report; and
- periodic entity-level disclosures in a sustainability entity report.

Pre-contractual disclosures	
Proposal	Detailed pre-contractual disclosure of key information regarding the sustainability-related features of a product.
Location	Fund Prospectus, the prior disclosure document for full-scope UK AIFMs, Part A of the sustainability product report for AIFs managed by small UK AIFMs.
Scope	All products using a sustainable investment label required to make pre-contractual disclosures associated with the qualifying criteria. Products that do not qualify for a label, but nevertheless adopt sustainability-related features that are integral to their investment policy and strategy, in a manner proportionate to the sustainability profile of the product. Firms providing portfolio management services do not have to produce their own pre-contractual disclosures but must instead provide retail investors with easy access to the relevant disclosures, for example by using hyperlinks. Products that do not qualify for a label or adopt sustainability-related policies and strategies are not subject to pre-contractual disclosure requirements.
Format	Builds upon existing requirements for a prospectus or prior disclosure document under the Collective Investment Schemes and Fund Sourcebooks.
Content	The sustainable investment label. Disclosures regarding the product's sustainability objective (Principle 1), investment policy and strategy (Principle 2), stewardship (Principle 5) as well as specific disclosures for products labelled as 'sustainable improvers' and 'sustainable impact'.
Frequency	The first pre-contractual disclosures must be made available at the same time as the label and consumer-facing disclosures (provisionally) from 30 June 2024. Pre-contractual disclosures for existing products must be updated to reflect sustainability objectives and investment policies and strategies. If there is a material change to the product, requiring a change to the pre-contractual disclosure, disclosures regarding that change must be made to investors in that product.

Notably, the FCA is not proposing to include requirements similar to the EU SFDR's 'Do No Significant Harm' approach as this is considered to be too restrictive. However, the implementation guidance to the qualifying criteria shows that firms should consider whether adverse environmental or social impacts might arise in pursuing sustainability objectives and if so, these must be disclosed, as must 'unexpected investments' (holdings that investors may not typically associate with a product that has a sustainable investment label). The latter must be disclosed in both the consumer-facing and pre-contractual disclosures, to provide greater transparency about the sustainability credentials of the product.

Building on the Task Force on Climate-related Financial Disclosures (TCFD) product report, firms will be required to produce a sustainability product report periodically, to help investors assess ongoing performance and progress towards meeting the stated objectives.

Sustainability Product Report – 'Part B'	
Proposal	Ongoing disclosure of sustainability-related performance of an investment product in a dedicated sustainability product report.
Location	Published in a prominent place on the firm's main website e.g. a link from the firm's homepage.
Scope	Products that qualify for a sustainable investment label. Firms providing portfolio management services not required to produce their own sustainability product reports but must provide retail investors with easy access to relevant disclosures through hyperlinks.
Format	The sustainability product report may either incorporate the required TCFD disclosures or include a hyperlink to the TCFD information. Firms will need to include, or provide a hyperlink to, these disclosures in the appropriate client communication which follows most closely after the annual reporting deadline. The FCA is proposing to retain the ability for firms to cross-refer to relevant disclosures in a third-party's sustainability product report, subject to certain safeguards, such as being clearly signposted. Cross-referencing between the sustainability product report (Part B) and its sustainability entity report is permitted, where relevant.

Sustainability Product Report – 'Part B'	
Content	The information required under the FCA TCFD rules (either incorporated directly or by hyperlinking). The sustainable investment label. The product's sustainability objective and progress towards meeting that objective. Disclosures associated with the investment policy and strategy (Principle 2); performance against specified KPIs (Principle 3); and where stewardship plays a significant role in the product's investment policy and strategy, specified 'stewardship KPIs', including engagement and voting in line with its sustainability objective and outcomes of its stewardship activities (Principle 5). Category-specific criteria for each product label.
Frequency	The first disclosures under 'Part B' of the sustainability product report to be published no later than 24 months after the rules enter into force (provisionally from 30 June 2025) which aligns with the deadline for publishing the TCFD product report. Disclosures would need to be updated on an annual basis and remain consistent with the sustainable investment label, which means updating them in line with any changes to the label.

The proposed rules include requirements for 'on demand reporting' in circumstances where public disclosures are not appropriate, such as discretionary portfolio management services to individuals or institutional investors and UK AIFMs managing unauthorised AIFs that are not listed on a recognised investment exchange. Where firms decide to use a label for these products, and their clients need the information to satisfy their own (or their clients' or customers') sustainability-related disclosure obligations, it is proposed that disclosures be made to the client, upon request, once a year. To address practical implementation issues, the client would not be able to make such a request before 1 July 2025, specifying a calculation date no earlier than 30 June 2024. A firm must respond to an on-demand request in a reasonable time and in a reasonably acceptable format to meet their information needs. Unauthorised AIFs managed by a UK AIFM that are not listed on a recognised investment exchange will need to provide the information in the sustainability product report and firms providing portfolio management services will provide clients with access to Part A and Part B of the reports, as applicable, for each of the underlying products in which it invests, where these are not already publicly available. In addition, firms are encouraged to provide broadly equivalent disclosures to any client who requests them (regardless of their eligibility to make such a request under the rules).

Product-level disclosure under SDR is similar but not identical to that under SFDR or the SEC proposals. Set out in the box below are some of the key similarities and differences.

SDR/SFDR		**SDR/SEC proposals**	
Similarities	Disclosures in similar types of documents (e.g. pre-contractual, website and periodic). Similar disclosure items.	Similarities	'Tiering' of disclosures (summary followed by more detailed information). Disclosures in similar types of documents (e.g. pre-contractual and periodic). Similar disclosure items.
Differences	No templates for disclosures. Disclosure items more granular (especially re investment policy and strategy). No 'do no significant harm' disclosure. No Taxonomy-alignment disclosure (pending development of UK Taxonomy). No Principal Adverse Impacts disclosure (pending development of ISSB standards).	Differences	No requirement for disclosures on ESG strategy to be set out in a table. No requirement for XBRL tagging for machine readability.

The box below illustrates the criteria firms must consider under SDR, SFDR and the SEC proposals, in relation to detailed product-level disclosures.

Firms making SFDR product-level disclosures will be considering:	Is this required under SDR proposals?
Sustainable investment objective; E or S characteristics of the product	Yes – Principle 1: sustainability objective
Monitoring sustainability objective; E or S characteristics (sustainability indicators)	Yes – Principle 3: KPIs
DNSH	No
Principal adverse impacts	No
Investment strategy	Yes – Principle 2: investment policy and strategy
Asset allocation/proportion of investments that promote E or S characteristics (including use of derivatives)	Yes – Principle 2: investment policy and strategy
Taxonomy-alignment	No
Methodologies, data sources and processing, limitations to methodologies and data	Yes – Part B sustainability product report
Due diligence	Yes – Principle 4: governance and resources
Engagement policies (where part of strategy)	Yes – Principle 5: stewardship
Reference benchmarks	Yes – Principle 2: investment policy and strategy
Extent to which E or S characteristics/ sustainable investment objective were met (performance of sustainability indicators)	Yes – Principle 3: KPIs
Proportions of investments (e.g. top investments; those that attained E or S characteristics/met the objective; those in different economic sectors and sub-sectors; Taxonomy-aligned)	No
Performance against designated reference benchmark	Yes – Principle 3: KPIs (e.g. where a benchmark has been designated as a performance indicator)
Historical comparison	Yes – Part B sustainability product report
Information on underlying investment options	No

Source: Financial Conduct Authority.

Firms making SEC fund-level disclosures will be considering:	Is this required under SDR proposals?
Integration Funds: disclosures on how ESG factors are incorporated into investment processes	No specific disclosures
ESG strategy (e.g. tracks an index, applies an inclusionary/exclusionary screen, seeks to achieve a specific impact, proxy voting, engagement, other)	Yes – Principle 2: investment policy and strategy
How ESG factors are incorporated into investment decisions	Yes – Principle 2: investment policy and strategy
How the Fund votes proxies and/or engages with companies about ESG issues	Yes – Principle 5: stewardship
GHG emissions (where relevant) – data sources, estimated data, methodologies	Yes – Principle 3: KPIs TCFD product report disclosures
Impact Funds: impact intention within investment objective, relationship between impact and financial return	Yes – Principle 1: sustainability objective
Impact Funds: progress towards achieving impact	Yes – Principle 3: KPIs
Periodic reporting on proxy voting/ engagement (where significant)	Yes – Principle 3: KPIs

Source: Financial Conduct Authority.

Sustainability Entity Report

A sustainability report is required to show how firms are managing sustainability risks and opportunities.

Sustainability Entity Report	
Proposal	These disclosures will build on the TCFD entity-level disclosure requirements, with the aim of enabling investors to take sustainability matters into account when granting mandates, and to assist the relevant firm with an analysis of its own sustainability matters.
Location	The sustainability entity report must be published in a prominent place on the firm's main website.
Scope	All in-scope firms must produce a sustainability entity report, but implementation will be phased (see section 4 'Implementation timeline' for details).
Format	The sustainability entity report may either incorporate the required TCFD disclosures or include a hyperlink to the TCFD entity report. The FCA is proposing to retain the ability for firms to cross-refer to sustainability-related disclosures made in a group, affiliate or third-party's sustainability report, subject to satisfying certain conditions. The sustainability entity report must also include a statement, signed by a member of senior management, confirming that the disclosures comply with Chapter 4 of the ESG Sourcebook.
Content	Initially, the core entity-level disclosure requirements will be based on the TCFD's four recommendations (governance, strategy, risk management, and metrics and targets). The FCA is also proposing to add Handbook guidance to assist firms in determining the content of the disclosures that may be useful for investors, and notes that firms may wish to refer to the ISSB's general sustainability-related disclosure requirements, as well as the SASB Standards.
Frequency	The FCA is proposing a phased implementation aligned with the deadlines for publishing TCFD entity reports. The first disclosures must be published by the largest in-scope firms (i.e., firms with £50 billion or more in AUM) by 30 June 2025, with smaller firms (i.e., firms with less than £50 billion but with £5 billion or more in AUM) publishing their first disclosures by 30 June 2026. Thereafter, these disclosures must be updated annually.

The SDR entity-level disclosure requirements are not fully aligned with the EU SFDR requirements or US requirements for fund advisers, as although overarching disclosure items are consistent, there are differences in the overall structure and content of the proposals. One of the key differences is that disclosure of principal adverse impacts (PAIs) is not required, the FCA opting instead to wait for the development of more specific ISSB standards. Hence, to ease the administrative burden, firms will be permitted to make entity-level disclosures in a group or affiliate report that includes other sustainability-related disclosures, provided that the cross-referencing and other disclosure requirements are met and a compliance statement to this effect is given.

Naming and marketing rules

The FCA is proposing to restrict the use of certain sustainability-related terms in product names and marketing materials unless the relevant product qualifies for, and uses, a sustainable investment label. The Consultation Paper sets out a non-exhaustive list of examples of such terms and includes words such as 'ESG', 'green', and 'climate'. In addition, products that use the 'Sustainable Focus' or 'Sustainable Improvers' labels will be prohibited from using the term 'impact' in their name and marketing materials. It should be noted, however, that at this stage the FCA is proposing to only apply these rules to in-scope products that are made available to retail investors in the UK.

In addition, a general 'anti-greenwashing' rule, which requires that sustainability-related claims must be clear, fair and not misleading, will apply to all regulated firms. Although the 'clear, fair and not misleading' rule already exists, the FCA believes it is necessary to link it directly to sustainability claims and explains that this will also provide it with an explicit rule on which to challenge firms on potential greenwashing and take the appropriate enforcement action.

3. Expanding the regime

The FCA intends to expand the scope of the SDR regime over time in the following areas:

- investment products (to include, for example, overseas products, pension products and other retail investment products);
- in-scope entities (to capture, for example, financial advisers and listed issuers); and
- disclosure (to include, for example, taxonomy-related disclosure requirements and ISSB-aligned entity-level disclosures).

4. Implementation timeline

Set out below is a provisional timeline for the proposals as they apply to in-scope firms and in-scope products. Note that firms providing portfolio management services have certain exclusions and deferred deadlines, details of which are set out in more detail in the Annex to this briefing.

Date	Implementation milestone
25 January 2023	Consultation period ends.
30 June 2023	• Final rules published. • General anti-greenwashing rule becomes effective.
30 June 2024	The following elements of the regime start to apply to in-scope firms and in-scope products: • Sustainable investment labels. • Consumer-facing disclosures (if marketing to retail, regardless of using a label). • Firms providing portfolio management services to provide links to consumer-facing disclosures and labels of underlying products. • Pre-contractual disclosures (if using a sustainable investment label or where sustainability-related features are integral to investment policy and strategy). • Firms providing portfolio management services to provide access to pre-contractual disclosures of underlying in scope products. • Naming and marketing rules (if marketing to retail and not using a sustainable investment label).
30 December 2024	The following elements of the regime start to apply to in-scope firms and in-scope products: • Sustainable investment labels for firms providing portfolio management services who qualify. • Naming and marketing rules for firms providing portfolio management services, unless exempt.
30 June 2025	Publication of first ongoing sustainability-related performance information (sustainability product report) for all in-scope firms and in-scope products using a sustainable investment label, except firms providing portfolio management services and UK AIFMs managing unauthorised AIFs not listed on a recognised exchange. Firms providing portfolio management services to provide access to relevant documents for underlying products. Publication of entity-level disclosures (sustainability entity report) for firms with £50 billion or more in AUM.
1 July 2025	'On-demand' regime applies to firms providing portfolio management services and UK AIFMs managing unauthorised AIFs not listed on a recognised exchange
30 June 2026	Publication of entity-level disclosures (sustainability entity report) for firms with less than £50 billion but with £5 billion or more in AUM.

5. What issues arise from the SDR Regime for asset managers?

- **Clarity, flexibility and 'levelling up'**
  Based on the experience of implementing SFDR, there are specific aspects of the SDR regime that are likely to be welcomed in the market for adding clarity and flexibility to product classification. A frequent concern about Article 9 SFDR is that it generally lacks the flexibility to allow for 'brown to green' investments, so the introduction of the 'improvers' label under SDR, one of the key differences of the new regime, could prove popular. That said, the stated aim of the SDR sustainable investment label is to 'raise the bar' in ESG product classification, and there does not appear to be a clear equivalent of Article 8 SFDR 'light' whereby products promote environmental or social characteristics but do not commit to make sustainable investments. Although the consultation paper suggests that SFDR Article 8 funds can meet one of the SDR labels, the FCA notes that these will need to 'level up' to meet the criteria. In practice, there are probably a significant number of 'Article 8 light' funds that might not meet these standards. It will therefore be important to see the level of substance the FCA expects firms to be able to demonstrate in order to back-up their choice of label.

- **Implementation planning and interoperability with other regimes**
  Firms affected by the new regime will need to factor in another level of classification and disclosure requirements. If they choose to use a sustainability label, they may need to implement a new approach to product classification and adjust their investment strategies to meet the qualification criteria under SDR. They would subsequently be required to make the necessary SDR disclosures. This will need to be factored into implementation planning. One of the biggest issues, affecting asset managers with EU and US businesses, is likely to be interoperability between SDR and SFDR and the proposed SEC requirements, as although similar to SDFR and SEC requirements, the UK rules are not identical.

- **Expansion of regime to cover overseas products and extra-territoriality**
  The precise product and territorial scope of the SDR regime is likely to require further clarification. As regarding extra-territoriality, the FCA is considering expanding the scope of the regime to include overseas products. This may need to be factored into implementation planning, to provide future adaptability.

  Expansion to overseas products was touched on in the 2021 Discussion Paper, with some respondees proposing that that non-UK investment managers who market their products to UK investors through the UK's private placement regime should be outside the scope of the SDR, given the risk that these could conflict with the requirements of other jurisdictions. These issues are likely to be raised in an upcoming consultation paper on expanding the SDR regime to overseas products.

- **Increased responsibilities for ESG products**
  The primary obligation to comply with SDR in respect of funds will sit with regulated fund managers (AIFMs or UCITS Manco). The exception to this is for internally managed funds – alternative investment fund vehicles that are self-managed.
  For fund boards of funds with external managers, the focus will more be on ensuring that the UCITS Manco or AIFM is discharging its obligations appropriately as they apply at product-level. In practice, ensuring that the fund board is comfortable with the categorisation of the fund from a labelling perspective and that disclosures relating to the fund's compliance with SDR are clear, fair and not misleading means that ability to scrutinise those disclosures from an ESG perspective would be helpful so SDR is likely to add to the need for boards to educate themselves on their funds' impact from an ESG perspective and to ensure that managers are adequately addressing their disclosure and labelling obligations.

- **Increased supervisory activity on 'greenwashing'**
  Asset managers should expect increased supervisory activity around 'greenwashing'. Alongside the proposals in the consultation, the core aim of which is to clamp down on greenwashing, the FCA is stepping up its supervisory engagement on sustainable finance and enhancing its enforcement strategy. This includes carrying out a multi-firm review to assess how well the market has adjusted to expectations set out in the Dear Chair letter issued to authorised fund managers in July 2021 and is in line with the new Consumer Duty and the FCA's objective to protect consumers.

Annex: Outline of the SDR Regime

Element	Firm	Sustainabiliy in-scope Product	Location	Application Date (provisional)
Sustainable investment labels *Can* be used for products marketed to retail and institutional investors, if firm *chooses* to do so and meets qualifying criteria. If not, firms marketing to retail investors must meet naming and marketing rules.	• Firms carrying out portfolio management. • UK UCITS management companies. • ICVCs • Full-scope UK AIFMs. • Small authorised UK AIFMs.	• Authorised funds (excluding feeder funds and funds in the process of winding up or termination). • AIFs, including investment trusts.	Label to be placed on website or mobile app where the product is offered.	30 June 2024 12 months after rules are published.
		• Portfolio management services, if ≥90% of the value of constituent products qualify for the same label.		30 December 2024 18 months after the rules are published.
Consumer-facing disclosures	In-scope firms marketing in-scope products to retail investors, regardless of whether they qualify for and choose to use a label, but excluding firms providing portfolio management services.	All in-scope products, except portfolio management services.	Disclosures displayed on website or mobile app where the product is offered.	30 June 2024 12 months after the rules are published.
		Firms providing portfolio management services not required to produce consumer-facing disclosures. Required instead to provide an index of the underlying in-scope products, linking to their label and consumer-facing disclosure, as applicable.		30 June 2024 12 months after the rules are published.

Element	Firm	Sustainabiliy in-scope Product	Location	Application Date (provisional)
Pre-contractual disclosures	In scope firms using a sustainable investment label, excluding firms providing portfolio management services. Firms not using a label where sustainability-related features are integral to the investment policy and strategy, excluding firms providing portfolio management services.	All in-scope products, excluding portfolio management services. Firms providing portfolio management services not required to produce pre-contractual disclosures. Required instead to provide access to the pre-contractual disclosures for the underlying in-scope products, or under the 'on demand' regime.	Disclosures to be located within the fund prospectus or prior information document, or Part A of the sustainability product report (including where the firm is only required to provide the contents of this report on demand).	30 June 2024 12 months after the rules are published.
Ongoing sustainability-related performance information	In scope firms using a sustainable investment label, except firms providing portfolio management services and UK AIFMs managing unauthorised AIFs not listed on a recognised exchange.	All in-scope products, excluding portfolio management services and unauthorised AIFs not listed on a recognised exchange. Firms providing portfolio management services not required to produce Part B of the sustainability product report. Required instead to provide access to the relevant reports for the underlying in-scope products.	Part B of the sustainability product report.	30 June 2025 24 months after the rules are published.
	Firms providing portfolio management services and UK AIFMs managing unauthorised AIFs not listed on a recognised exchange that are using a label.	To provide information equivalent to the content of a Part A (pre-contractual disclosures) and Part B sustainability product report to clients on demand, where those clients require the information to meet their own legal obligations.	'On-demand' regime.	1 July 2025 First requests from 24 months after rules are published.

Element	Firm	Sustainabiliy in-scope Product	Location	Application Date (provisional)
Entity level disclosures	In scope firms with AUM ≥£5 bn (on a 3-year rolling average).	Overall assets managed in relation to in scope business.	Sustainability entity report.	30 June 2025 For firms with AUM ≥£50 billion 24 months after the rules are published 30 June 2026 For firms with AUM ≤£50bn but ≥£5 bn 36 months after the rules are published.
Anti-greenwashing rule	All regulated firms	All firms' products and services.	All marketing and communications.	30 June 2023 Immediately on publication of the rules.
Naming and marketing rules	All in-scope firms marketing in-scope products to retail investors, that do not use a label.	All in-scope products.	All in-scope product names, marketing and communications.	30 June 2024 12 months after the rules are published.
		Firms providing portfolio management arrangements exempt from naming and marketing rules when ≥ 90% of the value of constituent products qualify for any label.		30 December 2024 18 months after publication of rules.
Distributors	Firms that are distributors of in-scope products to retail investors (including platforms and advisers).	All in scope products distributed to retail investors.	Website or mobile app where the product is offered.	30 June 2024 12 months after publication of the rules.

Source: Adapted from Table 1 to CP 2022/20. Financial Conduct Authority

CONTACTS

Paul Ellison
Partner
London
T: +44 207006 3207
E: paul.ellison@cliffordchance.com

Lily Marcel
Partner
London
T: +44 207006 4158
E: lily.marcel@cliffordchance.com

Jacqueline Jones
Knowledge Director
London
T: +44 207006 2457
E: jacqueline.jones@cliffordchance.com

Amy Watt
Knowledge Director
London
T: +44 207006 1987
E: amy.watt@cliffordchance.com

GLOBAL FUNDS AND INVESTMENT MANAGEMENT ESG CONTACTS

Nadia Kalic
Partner
Sydney
T: +61 2 8922 8095
E: nadia.kalic@cliffordchance.com

Bart Denys
Counsel
Brussels
T: +32 2 533 5905
E: bart.denys@cliffordchance.com

Véronique De Hemmer Gudme
Head of Regulatory Affairs
Paris
T: +33 1 4405 5128
E: veronique.dehemmergudme@cliffordchance.com

Gregor Evenkamp
Partner
Munich
T: +49 89 21632 8800
E: gregor.evenkamp@cliffordchance.com

Sonya Pauls
Partner
Munich
T: +49 89 21632 8550
E: sonya.pauls@cliffordchance.com

Viola Lui
Partner
Hong Kong
T: +852 2825 8842
E: viola.lui@cliffordchance.com

Lucio Bonavitacola
Partner
Milan
T: +39 02 8063 4238
E: lucio.bonavitacola@cliffordchance.com

Alberto Claretta Assandri
Senior Associate
Milan
T: +39 02 8063 4246
E: alberto.claretta-assandri@cliffordchance.com

Emmanuel-Frédéric Henrion
Partner
Luxembourg
T: +352 48 50 50 491
E: emmanuelfrederic.henrion@cliffordchance.com

Maren Stadler-Tjan
Partner
Luxembourg
T: +352 48 50 50 472
E: maren.stadlertjan@cliffordchance.com

Oliver Zwick
Counsel
Luxembourg
T: +352 48 50 50 476
E: oliver.zwick@cliffordchance.com

Daryl Liu
Partner
Singapore
T: +65 6661 2047
E: daryl.liu@cliffordchance.com

Kikun Alo
Senior Associate
London
T: +44 207006 4067
E: kikun.alo@cliffordchance.com

Simon Crown
Partner
London
T: +44 207006 2944
E: simon.crown@cliffordchance.com

Charlotte Chopping
Senior Associate Knowledge Lawyer
London
T: +44 207006 8327
E: charlotte.chopping@cliffordchance.com

Alexandra Davidson
Global Head of Funds & Investment Management
London
T: +44 207006 2581
E: alexandra.davidson@cliffordchance.com

Laura Douglas
Senior Associate
London
T: +44 207006 1113
E: laura.douglas@cliffordchance.com

Stephanie Dunne
Senior Associate
London
T: +44 207006 2812
E: stephanie.dunne@cliffordchance.com

Vishal Mashru
Senior Associate
London
T: +44 207006 2547
E: vishal.mashru@cliffordchance.com

Vadim Avdeychik
Partner
New York
T: +1 212 878 3055
E: vadim.avdeychik@cliffordchance.com

Daniel Drabkin
Partner
New York
T: +1 212 878 8255
E: daniel.drabkin@cliffordchance.com

Carmen Wong
Counsel
New York
T: +1 212 878 8084
E: carmen.wong@cliffordchance.com

C L I F F O R D

C H A N C E

www.cliffordchance.com

Clifford Chance, 10 Upper Bank Street, London, E14 5JJ

Clifford Chance LLP is a limited liability partnership registered in England and Wales under number OC323571

Registered office: 10 Upper Bank Street, London, E14 5JJ

We use the word 'partner' to refer to a member of Clifford Chance LLP, or an employee or consultant with equivalent standing and qualifications

If you do not wish to receive further information from Clifford Chance about events or legal developments which we believe may be of interest to you, please either send an email to nomorecontact@cliffordchance.com or by post at Clifford Chance LLP, 10 Upper Bank Street, Canary Wharf, London E14 5JJ

Abu Dhabi • Amsterdam • Barcelona • Beijing • Brussels • Bucharest • Casablanca • Delhi • Dubai • Düsseldorf • Frankfurt • Hong Kong • Istanbul • London • Luxembourg • Madrid • Milan • Munich • Newcastle • New York • Paris • Perth • Prague • Rome • São Paulo • Shanghai • Singapore • Sydney • Tokyo • Warsaw • Washington, D.C.
Clifford Chance has a co-operation agreement with Abuhimed Alsheikh Alhagbani Law Firm in Riyadh.

Clifford Chance has a best friends relationship with Redcliffe Partners in Ukraine.

2211-003687