# Guide on environmental impact claims for EU financial products

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**2° Investing Initiative** (2DII) is an international, non-profit think tank working to align financial markets and regulations with the Paris Agreement goals. 2DII coordinates some of the world's largest research projects on sustainable finance. Our team of finance, climate and risk experts develop research, tools and policy insights to help financial institutions and regulators hasten and adapt to the energy transition. To ensure our independence and the intellectual integrity of our work, we have a multistakeholder governance and funding structure with representatives from a diverse array of financial institutions, governments and NGOs.

**The agence de la transition écologique** (ADEME) is a public industrial and commercial establishment under the authority of the Ministries of Ecological Transition and Higher Education and Research. ADEME participates in the development of national and local policies for ecological transition and aims to accelerate the transition to a more sustainable and solidary society that creates jobs and is more humane and harmonious.

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**World Wildlife Fund** (WWF) is an international NGO working to protect and restore the environment. Its financial arm aims to redirect financial flows away from activities that harm our planet towards the ones that heal by demonstrating the links between financial risk and environmental risk.

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About our funder and the project: This project is funded by the EU's Horizon 2020 research and innovation program under Grant Agreement No 834345. LEVEL EEI aims at making the financial products contributing to energy efficiency and sustainable energy more competitive. This work reflects only the author's view, and the funder is not responsible for any use that may be made of the information it contains.

This Guide is part of the Retail Investing Research Program at 2DII which is one of the largest publicly funded research programmes on the supply, demand, distribution and policy aspects of retail investment markets in Europe. The Guide was built on a first version which was developed in French with a French multi-stakeholder group in the context of the Finance ClimAct project.

DISCLAIMER

The recommendations and examples of good and bad practice included in this Guide are based on an interpretation of the applicable legal framework at EU level and on the practical expertise of 2DII. They have no legal value and do not pre-empt the decision of a judge and/or any other competent authority. Moreover, they do not take into account the national legal framework in each Member State. It is therefore each financial institution's responsibility to ensure that its environmental impact claims comply with all applicable regulatory provisions.

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# 1. Overview

This Guide provides an overview of the standards applicable to environmental impact claims for financial products and offers best practice recommendations for financial institutions with two objectives:

- To fight greenwashing which hinders the financing of the green transition by retail investors.
- To provide a clear framework for financial institutions to protect them against legal, financial and reputational risks associated with greenwashing.

The term *financial product* as used in this Guide refers to investment funds or fund-based products (such as life insurance products). The Guide does not directly cover banking products (such as saving accounts or current accounts).[1]

An *environmental claim* can be defined as a 'practice of suggesting or otherwise creating the impression (in the context of a commercial communication, marketing or advertising) that a product or a service, is environmentally friendly (i.e. it has a positive impact on the environment) or is less damaging to the environment than competing goods or services.'[2] The term *environmental impact claim* refers to a specific type of environmental claim - those which aim to promote a positive impact on the environment.[3]

If environmental claims prove to be false or cannot be verified, this is known as *greenwashing.*[4] Greenwashing is harmful in several ways:

- It deceives investors and prevents them investing in financial products corresponding to their real sustainability objectives.
- It damages investor confidence and may lead to them ultimately deciding to abandon their investments.
- It distorts competition between financial institutions and in the long run has the effect of discouraging research and innovation.

It is crucial that financial institutions ensure they avoid any greenwashing practices. It should be noted that this Guide focuses on those environmental impact claims that are associated with the highest greenwashing risk. As explained in Section 3, environmental claims that do not imply an impact attributable to the financial product are not concerned.[5]

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[1] However, the recommendations and examples of good and bad practice in this Guide may also be relevant to environmental impact claims for banking products.
[2] Extract of the definition contained in the MDEC Compliance Criteria.
[3] The concept of environmental impact is defined in Section 3 of this Guide.
[4] Greenwashing can occur whether or not there is an intent to deceive the investor (see Section 2 of this Guide).
[5] Claims related to the participation to a collective action should also be regulated and should be differentiated from environmental impact claims.

## Scope

This Guide aims to provide a framework for environmental impact claims used by investment funds (or fund-based products) available to retail investors in the EU.[6] However, the recommendations and examples of good and bad practice in this Guide may also be relevant for other types of claim or financial product.

This Guide takes account of the applicable legal framework at EU level but does not cover the national legal framework in each Member State. Financial institutions should therefore ensure they consider further national regulatory provisions in all countries where their products are distributed.

## Objectives

***1. To fight greenwashing which hinders the financing of the green transition by retail investors***

The alignment of the finance sector with the climate objectives of the Paris Agreement requires the involvement of a diverse range of actors - private, public, institutional and individuals. Retail investors have the capacity to finance part of the green transition.[7] In addition, a significant proportion of retail investors want to have a positive (social or environmental) impact in the real world through their investment.[8] The main areas of interest for retail investors are environmental topics such as water, climate change, energy efficiency and renewable energy, the fight against pollution etc.[9]

It is therefore possible to align the sustainability interests of retail investors with the financing of the green transition. However, greenwashing is a significant obstacle where it misleads or deceives retail investors and thereby prevents this financing of the green transition.

***2. To provide a clear framework for financial institutions to protect them against legal, financial and reputational risks associated with greenwashing***

In response to the above-mentioned strong demand from retail investors, financial institutions often communicate a strong positive environmental impact for their financial products.[10] However, this concept of the environmental impact of financial products presents several problems:

- First, this concept is vague in the absence of a regulatory definition. However, leading finance sector practice and academic research offer elements for defining the environmental impact detailed in this Guide.
- Second, evidencing environmental impact in the finance sector context is complex. However, consumer protection regulation requires evidence to support any environmental claim.[11]

For environmental impact claims in the finance sector, the risk of greenwashing is therefore high. In the absence of a clear regulatory framework, financial institutions face significant legal uncertainty and are exposed to legal and financial risks in the event of legal proceedings and sanctions. Recent accusations of greenwashing against financial institutions highlight the reputational risk to which they are similarly exposed.

Providing a clear framework applicable to environmental impact claims can help financial institutions communicate more easily about financial products that provide environmental impact. Alternatively

[6] This scope is defined based on the reference legal framework, in particular the UCPD and the MDEC Compliance Criteria, as well as studies and analyses carried out by 2DII on environmental impact claims.
[7] In the Eurostat household report, household financial assets in the EU were valued at EUR32 billion in 2020.
[8] 2DII, 2022, What do your clients actually want?
[9] 2DII, 2022, What do your clients actually want?
[10] 2DII, 2021, Sustainable Finance and Market Integrity: Promise Only What You Can Deliver
[11] See Article 12 UCPD and Section 2.3 MDEC Compliance Criteria

other financial institutions may decide to avoid all environmental communication to avoid any risk of greenwashing.[12]

This Guide supports financial institutions in a communication process for environmental impact claims which is clear, accurate and not misleading.

- It provides an overview of the applicable legal framework and the risk of sanctions (Section 2).
- It explains why it is necessary to pay particular attention to communications on the environmental impact of financial products (Section 3).
- It includes recommendations of practices to prioritise or avoid in terms of communications relating to the environmental impact of financial products and examples of good and bad practice (Sections 4 and 5).
- It provides information on the existing methods and tools to substantiate environmental impact claims (Appendix 2).

*Why should financial institutions follow the recommendations of this Guide?*

- *To avoid controversies/scandals and to mitigate reputational risks.*
- *To reduce legal and financial risks.*
- *To promote a credible and attractive range of financial products which have a positive impact on the environment.*
- *To contribute to environmental awareness and respect.*

[12] Some fund managers invest in sustainable activities but do not advocate them to avoid problems arising in respect of disclosure obligations.

# 2. Applicable legal framework and risk of sanctions

## Overview of applicable regulation and guidance

There are no regulatory provisions specifically focussed on environmental impact claims associated with financial products. However, there are generally applicable regulatory provisions and guidance which are relevant in the context of an environmental impact claim for financial products. It is crucial for financial institutions to be aware of all regulatory provisions and guidance in order to comply with them.

| Overview of the applicable provisions for claims made regarding the environmental impact of financial products distributed in the Europe Union[13] | | |
|---|---|---|
| **Text** | **Binding force** | **Relevant sectors** |
| Markets in Financial Instruments Directive (**MIFID II**) | Obligation in force | Finance sector |
| Cross-Border Distribution of Funds (**CBDF**) Regulation | Obligation in force | Finance sector |
| ESMA Guidelines on the CBDF Regulation | Guidance on interpretation and application | Finance sector |
| Unfair Commercial Practices Directive (**UCPD**) | Obligation in force | All sectors |
| Guidance on the interpretation and application of the UCPD (**UCPD Guidance**) | Guidance on interpretation and application | All sectors |
| Multi-Stakeholder Dialogue on Environmental Claims (**MDEC**) Compliance Criteria | Guidance on interpretation and application | All sectors |
| ICC Advertising and Marketing Communications Code (**ICC Code**) | Recommendation and obligation in force depending on countries | All sectors |

The table above illustrates that rules applicable to environmental impact claims are spread across various texts at EU level. Some are specific to the finance sector (MIFID II,[14] CBDF Regulation[15] and its Guidelines[16]) while other texts cover consumer protection (UCPD[17] accompanied by the UCPD Guidance[18] and the MDEC Compliance Criteria[19]). Specific rules and recommendations at national level should also be considered (notably those issued by financial authorities and advertising self-regulatory organisations).

[13] The table is not exhaustive. It is notably missing provisions issued at national level in each member state.
[14] Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU.
[15] Regulation (EU) 2019/1156 of the European Parliament and of the Council of 20 June 2019 on facilitating cross-border distribution of collective investment undertakings and amending Regulations (EU) No 345/2013, (EU) No 346/2013 and (EU) No 1286/2014.
[16] ESMA Guidelines on marketing communications under the Regulation on cross-border distribution of funds.
[17] Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council.
[18] Communication from the Commission: Guidance on the interpretation and application of Directive 2005/29/EC of the European Parliament and of the Council concerning unfair business-to-consumer commercial practices in the internal market
[19] Compliance Criteria on Environmental Claims, Multi-stakeholder advice to support the implementation/application of the Unfair Commercial Practices Directive 2005/29/EC.

It should be noted that the provisions in the Sustainable Finance Disclosure Regulation[20] (**SFDR**) and the Taxonomy Regulation[21] are not adapted to regulate environmental impact claims of financial products.

- First, these regulations do not define criteria for the legality of environmental claims. Indeed, the SFDR is limited to defining the information to be disclosed according to different levels of ambition of financial products in terms of sustainability. And the Taxonomy Regulation provides a classification system for environmentally sustainable economic activities.
- Second, these regulations have yet to incorporate the concept of investor environmental impact (as distinct from investee company environmental impact).[22]

## Definition of an environmental impact claim for financial products

As a reminder, an *environmental claim* can be defined as a 'practice of suggesting or otherwise creating the impression (in the context of a commercial communication, marketing or advertising) that a product or a service, is environmentally friendly (i.e. it has a positive impact on the environment) or is less damaging to the environment than competing goods or services.'[23] [24] The term *environmental claim* is wide and could refer to positive impact on climate and/or biodiversity for example.

There is no EU regulation which includes a definition of an *environmental impact claim* in the finance sector. It could be defined as: 'any message or representation, which is not mandatory under European Union law or national law, including text, pictorial, graphic or symbolic representation, in any form, including labels, brand names, company names or product names, in the context of a commercial communication, which states or implies that a financial product allows the investor to have a positive impact on the environment.'[25]

## Summary of rules applicable to environmental impact claims for financial products

Environmental impact claims for financial products must comply with rules specific to the finance sector:

- They must be clear, accurate and not misleading.[26]
- They must be consistent with the legal and regulatory documents of the promoted fund.[27]
- They must be proportionate to the integration of sustainability features or goals in the investment strategy.[28]

Environmental impact claims for financial products may constitute a misleading commercial practice under consumer protection law:

[20] Regulation (EU) 2019/2088 of 27 November 2019 on sustainability-related disclosures in the financial services sector.
[21] Regulation (EU) 2020/852 of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088.
[22] Freshfields Bruckhaus Deringer, 2021, A legal framework for impact - sustainability impact in investor decision making, report commissioned by UNEP FI, The Generation Foundation and PRI
[23] Extract of the definition contained in the MDEC Compliance Criteria.
[24] It should be noted that ESG factors being considered by a fund in its selection process, does not necessarily mean that it has or is claiming to have a positive impact on the environment. The concept of *environmental impact claim* is explained in Section 3 of this Guide.
[25] Definition suggested by 2DII, based on the proposal for a directive amending Directive 2005/29/EC: This proposal suggests incorporating into law the following definition: 'any message or representation, which is not mandatory under Union law or national law, including text, pictorial, graphic or symbolic representation, in any form, including labels, brand names, company names or product names, in the context of a commercial communication, which states or implies that a product or trader has a positive or no impact on the environment or is less damaging to the environment than other products or traders, respectively, or has improved their impact over time.'
[26] Article 24.3 MIFID II and Article 4 CBDF Regulation
[27] Section 6.5 ESMA Guidelines on marketing communications pursuant to the CBDF Regulation
[28] Section 6.5 ESMA Guidelines on marketing communications pursuant to the CBDF Regulation

- If it contains false information.[29]
- If it contains information that could mislead the average consumer, even if the information is factually correct.[30]
- If it omits important information that the average consumer needs to make an informed business decision (the information is withheld or is unclear, unintelligible or ambiguous).[31]

In the event of legal proceedings, it is up to the professional to provide evidence of the accuracy of the environmental impact claim.[32]

The UCPD Guidance[33] and the MDEC Compliance Criteria help to better interpret and apply consumer protection rules in the context of environmental claims. The following should be noted in particular:

- *Regarding generic claims:* Vague and general claims (such as *green*, *responsible* etc.) should be avoided if they cannot be substantiated.
- *Regarding the proof of claims:* Claims should be based on solid, independent, verifiable and generally accepted evidence that takes into account the latest scientific findings and methods.
- *Regarding future claims:* Claims relating to future results should be avoided and communications regarding future efforts preferred.
- *Regarding the product name:* The product name is also subject to the obligations above.

Finally, it should be noted that several EU countries strongly regulate the use of carbon neutrality claims. For example, France has prohibited claiming that a product or service is carbon neutral, or to use any wording of equivalent meaning or scope unless certain conditions are fulfilled (GHG emission report, reduction trajectory, compensation methods).[34]

# Monitoring and sanctioning

Monitoring and sanctioning may vary from one Member State to another but typically may involve the following authorities.

**Financial authorities:** Financial authorities may have power to request modification of an environmental claim prior to its publication and, after publication, power to sanction an environmental claim considered misleading.

**Advertising authorities:** The European Advertising Standards Alliance (**EASA**) is the single authoritative voice on advertising self-regulation issues in Europe. EASA is the umbrella organisation for 27 advertising Self-Regulatory Organisations (**SROs**) in 25 European countries (see Appendix 3). EASA has no sanctioning powers, but its objective is to set out high operational standards for advertising self-regulatory systems at national level. The monitoring and sanctioning of advertisements still happen at national level according to each of the SROs' codes and the transposition of EU directives. In the EU, each SRO has its own set of rules, and the foundation of these rules is the ICC Code.[35] An independent and impartial jury is responsible for interpreting the ICC Code, once a complaint regarding an advert has been filed by either the general public or competitors. The jury is responsible for deciding on sanctions. These may include (depending on the SRO):

- amendment or withdrawal of an advertisement;
- publication of decisions;
- compulsory pre-clearance for advertisers who frequently breach the rules;
- expulsion from trade organisations; and
- in extreme cases referral to the relevant authorities.

[29] Article 6 UCPD
[30] Article 6 UCPD
[31] Article 7 UCPD
[32] Article 12 UCPD
[33] Section 4.1.1 UCPD Guidance
[34] Article L. 229-68 of the French Environmental Code
[35] With the intent of helping marketers, advertisers and regulators, the ICC with help from EASA updated in 2021 its framework for Responsible Environmental Marketing Communications.

**SRO copy advice mechanism**

Financial institutions wishing to advertise their funds may request copy advice. Through this mechanism SROs provide expert advice on advertisements before publication to ensure they with the applicable regulatory framework. Copy advice is provided on a confidential basis and is usually accompanied by advice on amendments necessary to bring a non-complying advertisement into line with the rules. This mechanism does not guarantee that the advertisement will be free of complaints. However, in the case of a complaint, it will be noted that the advertiser acted in good faith by requesting advice from the SRO.

**National courts:** Financial institutions whose environmental impact claims do not comply with the applicable rules are exposed to different types of sanctions if brought before a court including:

- prison terms;
- substantial fines[36];
- indemnities intended to compensate the damage suffered by the investor.

Here again the nature and level of sanctions vary from one Member State to another.

## Is intent relevant?

It is important to note that, based on the current regulatory framework, intent is not relevant to assess if an environmental claim is misleading.[37] [38] This can create additional uncertainty for a financial institution acting in good faith but receiving false information from issuers, data providers, index and service providers, product manufacturers or distributors etc.[39]

Currently, disclosure of quality information relies on the correct implementation the EU disclosure framework (notably Corporate Sustainability Reporting Directive, Taxonomy Regulation and SFDR). In addition, appropriate supervision by regulators should be put in place to enable reliance on the reported information. In the meantime, financial institutions should adopt a precautionary approach to check the reliability (to the extent possible) of any reported information which is used to substantiate environmental impact claims.

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[36] In France for example, fines can be up to 10% of revenue or 80% of advertising expenses incurred, and even 100% of expenses incurred relating to non-compliance with the carbon neutrality claim ban (Article L. 132-2 of the French Consumer Code and Article L. 229-69 of the French Environmental Code).

[37] Articles 6 and 7 UCPD do not indicate intent as a criterion to define a misleading practice but whether the commercial practice is likely to cause the average consumer to take a transactional decision that he would not have taken otherwise. Moreover, the UCPD Guidance mentions ‘intention is not a necessary condition for the imposition of penalties in case of infringement.’ Finally, recital 68 of MiFID Implementing Regulation (EU) 2017/565 mentions ‘Information should be considered to be misleading if it has a tendency to mislead the person or persons to whom it is addressed or by whom it is likely to be received, regardless of whether the person who provides the information considers or intends it to be misleading.’

[38] It should be noted however that intent can be taken into account to determine the level of penalty in case of misleading environmental impact claims. See page 23 of the UCPD Guidance: Intentional nature of the infringement is relevant for the application of the criteria taken into account for the imposition of penalties.

[39] Certain actors are calling for a regulatory definition of greenwashing linked as much as possible to existing requirements on non-misleading information and to ensure responsibility is put at the correct level in the investment chain. See SMSG advice to ESMA on additional questions relating to greenwashing dated 16 March 2023

# 3. Challenges specific to environmental impact claims

Financial institutions face various problems in promoting the environmental impact of financial products in compliance with the legal framework detailed in Section 2:

- clearly defining and framing the concept of environmental impact for a financial product (in the absence of a clear regulatory definition); and
- deducing the elements that would support the environmental impact claim.

## A. Defining and complying with the concept of environmental impact

According to the scientific literature on the subject, and in particular to the work of researchers from the University of Zurich[40], the impact of an investment can be defined as *the change in a specific environmental parameter that is caused by the investor's actions.*

It is therefore important to distinguish between the environmental impact of the *investor* and the environmental impact of the *investee company*.

- The environmental impact of the *investee company* corresponds to the change[41] (positive or negative) that the investee company's activities cause to society, the environment and the climate (for example the progression of a company's GHG emissions).
- The environmental impact of the *investor* is defined as the change[42] that the investor's actions bring about for the business of the investee company (for example the actions of an investor may reduce the GHG emissions of an investee company's production model).

**There is indeed a link between the environmental impact of an investee company and that of an investor, but the environmental impact of the investor cannot be directly and simply equated with that of the investee company without ensuring that the environmental impact of the investee company is caused by the action of the investor.**

L'Institut de la Finance Durable[43] explains that **impact finance rests on 3 pillars.**[44]

**Intentionality**
At the investor level, intentionality means the investor's desire to help an investee company generate a measurable environmental benefit. At the investee company level, intentionality means the investee company's desire to contribute to one or more environmental objective as part of its business model.

Impact investors have the clear objective of responding to a sustainable development issue. This is what differentiates impact investing from investment approaches based on a generic ESG (environmental, social and governance) integration process.[45] This intention must be systematic and concern all the fund's investments. It is expressed at the time of making the investment decision (ex-ante).

[40] Heeb, F., and Kölbel, J., 2020, The investor's guide to impact, Center for Sustainable Finance and Private Wealth, University of Zurich
[41] This can be a positive or negative environmental impact, but this Guide focuses on positive impacts.
[42] This can be a positive or negative environmental impact, but this Guide focuses on positive impacts.
[43] Previously *Finance For Tomorrow.*
[44] L'Institut de la Finance Durable, 2021, Pledge for the development of Impact Finance. It should be noted that l'Institut de la Finance Durable refers not only to the environmental impact, but also to the social impact. For the sake of clarity, this Guide focuses solely on environmental impact claims.
[45] L'Institut de la Finance Durable, 2021, Definition of impact finance

**Additionality**
To discuss investor impact, it is necessary to demonstrate additionality: in other words the attribution of the change in the real world to the investor's actions. Analysing additionality means trying to answer the following question: without the action of the investor through this financial product, what would have been the difference in outcome in the real world?

Therefore, good environmental performance of the investee company in which the financial product is invested, or improvement in this environmental performance of the investee company over time, cannot sufficiently characterise the positive investor impact. Indeed, this improvement could have occurred in the absence of this investment, for example as a result of actions taken by another investor (substitutability) or other company stakeholders unrelated to the investment (a change of management, a new regulation, a media campaign carried out by NGOs etc.).

Analysing additionality is even more complex and questionable for investments made on the secondary market, which involve an exchange of assets between investors but may not lead directly to new financing for investee companies or to changes in investee company behaviour. The investor invests in a company with a positive impact but does not provide - and is not *directly* responsible for - any additional financing. However, the investor may contribute - theoretically and subject to identical and simultaneous behaviour on the part of a significant number of other investors - to improving the company's financing conditions.[46]

More generally, strategies which are specific to listed markets[47] and are recognised in scientific writing as having a potential impact (for example shareholder engagement or the price signalling)[48] present difficulties related to the evaluation of additionality (see the box below).

*Although it can pose major challenges in terms of evaluation, the criterion of additionality is decisive for evaluating the impact of a financial product, as it makes it possible to ensure that an investment has a positive impact in the real world.*

**Impact measurement**
Impact measurement involves assessing the environmental effects in the real world, on the basis of the impact objectives pursued. The impact objectives pursued are positive, irrespective of whether they represent a search for an increase in a positive externality (over time or compared to a reference scenario) or a significant reduction in a negative externality.

Evaluation can be qualitative or quantitative and may address the impact of the products and services offered by the investee company as well as the impact of its production processes. The results of this impact measurement must be communicated and used by the investor in the management of their investments.[49]

*In conclusion, an impact investment must: (i) aim at an impact in the real world (with explicit and clear objectives); (ii) seek additional effects in the real world through additional actions; and (iii) measure the additional effects in the real world.*

[46] In theory, a secondary market investor can have an indirect effect on corporate decisions by altering prices and trading volumes. In practice, this indirect effect is difficult to prove, as it depends on the behaviour of other investors and in all likelihood is very marginal.
[47] Unlike unlisted markets, listed markets are primarily characterised by public information on the companies listed, higher liquidity, and larger-sized companies.
[48] These strategies have been identified as suitable for the listed market by the work of the IMP and supported by research carried out at the University of Oxford. They are presented in Appendix 2.
[49] L'Institut de la Finance Durable, 2021, Definition of impact finance

## B. Identifying the elements to support an environmental impact claim

Regulation requires financial institutions to be able to substantiate their claims[50] and this also applies to environmental impact claims. The three pillars presented above to qualify an impact investment (intentionality, additionality and impact measurement) are also relevant for identifying the elements to support an environmental impact claim.

Based on the definition of impact investing, an environmental impact claim should be substantiated by demonstrating: (i) a clear and detailed intention to have an impact in the real world; (ii) the additional actions taken and the additional effects obtained; and (iii) measurement of the additional effects obtained based on the best available science.

*Financial institutions should consider the difficulty of demonstrating additionality and to ensure before making any environmental impact claim that they have the required evidence to substantiate the claim.*

**Participation in collective action and the difficulty to measure additionality of an individual action**

Investor impact, in the context of the requirement for additionality, requires implementation of relevant means and strategies[51] as well as evidence of the causal link between the action taken by the financial product and the results obtained.

Given the nature of listed markets, which are large and have a highly diluted shareholding, the investor impact strategies best adapted to these (shareholder engagement, price signalling etc.) most often require participation in a *collective action* whereby the simultaneous intervention of other investors is a necessary condition for achieving the impact objective pursued by the financial product. This condition regarding participation in or contribution to a collective effort/result, as opposed to individual impact, can prove to be a real challenge in terms of the requirement to measure the investor impact which is necessary to ensure the impact of a financial product and therefore support an environmental impact claim. This requirement underlines the importance of being able to distinguish between an impact-oriented financial product able to make an environmental impact claim (i.e. where the causality of the individual action is clearly identified and can be measured) from a financial product with a strategy of participation in a collective effort which is unlikely to be able to make an environmental impact claim (since it cannot measure individual additionality in the results).

This Guide is primarily intended to provide a framework for environmental impact claims i.e. claims promoting the achievement of a positive environmental impact. These claims must be supported by the measurement of the individual additionality of the results (evidence of the causal link between the actions of an investor and the results). However, being aware of the need to also promote ambitious actions on listed markets, and considering listed markets are the main focus of financial products geared towards retail investors, we can only encourage:

- On the one hand, public and private initiatives to develop minimum standards and labels to validate the contribution/participation of an investment fund to the collective action aimed at obtaining a positive environmental impact (without being able currently to measure investor impact). Such financial products should adopt a communication approach which is different from products able to measure investor impact (i.e. different from environmental impact claims).
- On the other hand, academic research to develop robust additionality assessment methods in the context of participation in collective action.

[50] Article 12 UCPD

[51] These strategies have been identified as having a potential impact and having been adapted for different financial markets (listed and unlisted) by the work of the IMP and supported by research carried out at the University of Oxford. They are presented in Appendix 2 of this Guide.

# 4. Recommendations

Given the complications associated with environmental impact claims in the finance sector (see Section 3) and the lack of a clear legal framework (see Section 2), financial institutions lack clarity on how to provide legitimate environmental impact claims. This Section aims to provide recommendations to guide financial institutions in developing their own environmental impact claims for financial products.

**Although this Guide does not predetermine the decision of a judge or a competent authority, these recommendations are intended to reduce the legal, reputational and financial risks for financial institutions.**

## 1. Evidence: Defining the scope of the environmental impact claim in terms of what can be proven

The scope of the environmental impact claim should be defined in terms of what can actually be evidenced. This means that formulating an environmental impact claim for a financial product requires the following elements to be evidenced: (i) a clear and detailed intention to have an impact in the real world; (ii) the additional actions taken and the additional effects obtained; and (iii) measurement of the additional effects obtained based on the best available science.

It is recommended that financial institutions making environmental impact claims do so following this procedure:

- Gather evidence (ex-ante) on expected commitments and objectives in relation to improving the potential investor impact;
- Gather evidence (ex-ante) on planned actions/strategies to enhance the potential investor impact;
- Gather evidence (ex-ante) on each hypothesis of the causal link between additional action taken and the expected results (i.e. the hypotheses on which the strategy for improving the potential impact is based);
- Gather (ex-post) evidence on how additional action is taken;
- Gather evidence (ex-post) on the results and explain how they support or contradict the initial hypotheses;
- Put an independent control system in place (at least an internal audit on the gathering of evidence and evaluation methods).

The aim of this evidence-based approach is to avoid any ambiguity between assumptions and facts, build up a body of evidence to continuously improve the investment strategy, as well as provide a solid basis to support the environmental impact claim.

This approach requires questioning which methods of evidence are used and seeking to ensure use of the latest scientific approaches. As a reminder, the question of evidence is particularly complex when it comes to the additionality of investor impact. In Appendix 2, we provide information on the existing methods and tools to substantiate an environmental impact claim.

From a practical point of view, this evidential requirement (and the means which need to be implemented to satisfy it) means that environmental impact claims should only be considered for financial products with a strong ambition in terms of investor impact.

**In practice: the right questions to ask for successful communication**
The scope of an environmental impact claim will depend on the extent and quality of evidence. Before any communication, the following questions should be asked.

What kind of evidence do I have? Is this evidence of the intention and actions taken to have an additional impact in the real world and/or evidence of the impact generated in the real world?

*Regarding intentionality:*
Can I provide - especially through my pre-contractual documents – evidence of an intention to generate impact in the real world (in particular intention to have additionality in the actions taken and intention to measure the impact generated in the real world)?

*Regarding additionality:*
Can I demonstrate the additionality of my investment strategy? Do I have a theory of change in relation to the impact potential of my investment strategy? Does real world impact depend on the actions of other investors?

*Regarding impact measurement:*
Have I implemented a process to measure the impact in the real world? In the case of an observed impact in the real world, am I able to demonstrate that this is caused by my actions? Is this decisive evidence?

## 2. Additionality: Being transparent regarding the additionality criteria

A significant portion of retail investors express an intention to make a positive impact through their investment, but the concept is complex and is based on an additionality requirement. It is therefore important to remember that:

- Financing of activities defined as environmentally sustainable[52] does not necessarily satisfy the additionality requirement (if there are no difficulties in accessing finance in the first place, or if the financing is not offered at rates which are lower than those used by other investors).
- Avoiding financing activities that are harmful to the environment does not prevent these activities from being funded if the data suggest that other investors (through the effect of substitutability) can finance these activities.
- The investment (or financing) strategy will not trigger more environmentally friendly practices for the investee companies if the decision to introduce these practices has already been taken or is mainly motivated by other factors.

The absence of proof of the additional effect of the investor's action on the results of the collective action means an environmental impact claim is not possible for the financial product. It is better to promote the implementation of this type of strategy by another means of communication.

The following practices should be adopted:

- Refrain from suggesting that the environmental impact of the investee company can be *automatically* credited to the investment strategy of the financial product (and therefore implying that these environmental impacts are directly caused by the investor).
- Refrain from equating a change in the asset portfolio (e.g. divesting from an investee company owning a coal-fired power plant) with environmental impacts in the real world (the reduction of GHG emissions) when these environmental impacts are not proven (e.g. the plant having been bought by another investor instead of being shut down).
- Refrain from equating an increase in allocation to certain financial assets (e.g. increase in exposure to green bonds or assets under management in environmental funds) to an increase

[52] According to the Taxonomy Regulation

in financing in the real world (e.g. increased financing for environmentally sustainable projects that were previously underfunded).

It is therefore necessary:

- To retain all evidence of additionality.
- To use the most rigorous methods to determine the additionality of the impact in the real world.
- To remember that evidence of additionality is imperfect and that additionality of past investments is no guarantee of additionality of future investments.

**In practice: the right questions to ask for successful communication**
In addition to consideration of the extent and quality of the evidence, transparency on the additionality criteria is essential when communicating on the environmental impact of a financial product. Before any communication, the following questions should be asked.

*Regarding intentionality:*
Is the desire for additionality of the investment strategy clearly mentioned in the mandatory regulatory documents (KIID, prospectus, periodic reports etc.)?

*Regarding impact measurement:*
Can I differentiate what is solely the investee company impact from the investor impact (e.g. the impact that the retail investor can have in the real world by investing in the financial product)?

## 3. Proportionality: Ensuring communication is proportionate with the potential environmental impact of the investment strategy

Any communication on the environmental impact of the financial product must be proportionate to the actions taken to achieve this environmental impact. Given the critical nature of the actions taken in terms of ensuring impact in the real world (and measuring that impact), any environmental impact claim should only be considered for financial products where an impact objective is at the heart of the investment strategy.

Communications must take into account that the impact of an investment strategy most often requires joint action and a mass effect to be achieved (particularly on listed markets).

Communication must consider the current state of scientific research on environmental impact in the finance sector and the nature of financial markets (i.e. the difficulty of evidencing an impact). Therefore, communications on creating an environmental impact should avoid any excess and should be restrained.

It is advisable to add the following warning to environmental impact claims: **'The methodologies and evidence currently available do not allow for accurate and reliable assessment of the environmental impacts of fund investments.'**

Any reference to past environmental performance should be accompanied by the following statement: **'Past environmental performance does not predict future environmental performance.'**

However, the use of warnings and legal notices can be useful but must accompany clear, accurate and non-misleading communication. Retail investors must be clearly informed of the limitations of investment strategies.

**In practice: the right questions to ask for successful communication**
Any environmental impact claim for a financial product must respects the principle of proportionality. Before any communication, the following questions should be asked.

*Regarding intentionality:*
Is my impact objective central to my investment strategy and presented as such in the mandatory regulatory documents (KIID, prospectus, periodic reports etc.)?

*Regarding additionality:*
Are all the actions taken oriented towards achieving the environmental impact objective? And are their limits sufficiently explained?

*Regarding impact measurement:*
Does my communication on environmental impact take into account the difficulty of measuring impact in the real world (which are inherent in the financial markets in which the product operates, particularly listed markets) and the current state of scientific research on the subject? For example, if achieving my impact objective is conditional on the action of other investors, does my communication take this into account?

## 4. Clarity: Using precise, clear and simple terms to talk about environmental impact

Environmental impact claims should always use *appropriate vocabulary that accurately reflects reality in order to avoid ambiguity. Vague terms that do not refer to substantiated benefits should be avoided.* The term *environmental impact*, which is vague and generic, should therefore be avoided if the investor's environmental impact cannot be substantiated.

Communication must be clear and readily understandable for individuals with a low level of knowledge of sustainable finance. The complexity and technicality of measuring additionality should not be used to mislead investors. The concept of investor environmental impact should not be confused with that of investee company environmental impact. A reference to more detailed information (e.g. on a website) may be desirable as a means to address the complexity of the environmental impact claim and not impair its legibility.

It is also important to avoid confusing the terms *financing* and *investment*. *Financing* reflects real cash flow which is not the case for *investment* (which can correspond to an exchange of securities without creating any new cash flow in reality).

**In practice: the right questions to ask for successful communication**
Any environmental impact claim must be understood by all (regardless of their level of knowledge) and must not be misleading. Before any communication, the following questions should be asked.

Does the environmental impact claim consider the difficulty of understanding terms and concepts associated with the impact of a financial product (e.g. the concept of additionality and the complexity of its measurement)? Does it include a reference to more detailed, popular definitions?

Is the vocabulary used appropriate for the concept of investor impact and not misleading (e.g. incorrect use of the term financing for investment operations on the secondary market)?

## 5. Consistency: Ensuring consistency of environmental impact claims with mandatory regulatory information

Environmental impact claims must be consistent with the information contained in KIIDs, prospectuses, and periodic reports. It is advisable to contact the national financial regulator or the local SRO prior to formulating an environmental impact claim to confirm the possibility of using such an environmental impact claim considering the information contained in the product documentation.

It is important to stress that the concept of investor environmental impact (i.e. the investor's positive impact on the environment) should not be confused with other concepts. As the concept of investor environmental impact is not defined in the EU regulatory framework, it is important to avoid creating confusion between an impact oriented financial product and existing regulatory categories of sustainable financial product (e.g. Articles 8 and 9 of SFDR) or principal adverse impact (PAI) indicators. This confusion is particularly apparent in relation to equating an Article 9 financial product with an impact-oriented product – whereas in reality an Article 9 financial product refers to what could generally be regarded as thematic investments (and more likely to match the objectives of investors seeking value alignment rather than impact). For PAI indicators, these reflect the negative impacts of the underlying assets (companies or projects) held by the financial product and not the investor impact.

**In practice: the right questions to ask for successful communication**
Since investor environmental impact is not yet defined in the EU regulatory framework, there is no specific regulatory category or list of mandatory disclosures related to this concept. However, this gap should not be a pretext for confusion around the concept of investor environmental impact and any environmental impact claim must be consistent with mandatory disclosures. Before any communication, the following questions should be asked.

Do my mandatory disclosures refer to the concepts constituting investor environmental impact (e.g. intention, additionality and impact measurement)?

Do I avoid justifying investor environmental impact solely by the financial products categorisation as either Article 8 or Article 9 SFDR?

Have I contacted the national financial regulator to ensure that my environmental impact claim is compliant (this is not mandatory but advisable)?

# 5. Examples of good and bad practice

The tables below provide examples of good and bad practice in environmental impact claims for investment funds.

- Table 1 presents practices to avoid. Some of these practices are prohibited in principle or deemed unfair in all circumstances (with or without exemptions). Others may be subject to sanctions if certain conditions are not met. The first column gives examples of these practices (most of them have been observed in the market and anonymised). This is an illustrative and non-exhaustive list. The second column presents legal explanations and references to understand why these practices should be avoided.
- Table 2 presents an example of good practice for the formulation of environmental impact claims.

**These examples are indicative and do not exempt financial institutions from an internal compliance review.**

| Table 1: Bad practices | | |
|---|---|---|
| Practices | Examples | Legal provisions |
| False communications | • Claiming that a change in portfolio allocation automatically leads to positive changes in the real world: '*Our sustainable funds aligned with the 2° scenario are suitable for people who want to direct their money towards achieving environmental objectives, through strategies that combine financial performance and real-world benefits.*'<br>• Claiming that a lower GHG emission level than that of competitors is equivalent to a reduction in GHG emissions in reality: '*Based on an investment of 5,000 euros in the fund: The emissions of held companies are 40% lower than the market reference, which is equivalent to a reduction of auto emissions by 10,000 km.*'<br>• Claiming that ESG integration, theme-based investment or exclusion strategies have a direct positive effect in the real world: '*The fund is based on a theme-based strategy aimed at achieving positive environmental outcomes.*' | Commercial claims must be fair, clear and not misleading.[53]<br><br>Claims that are false or likely to mislead the average consumer are misleading marketing practices.[54] |
| Vague or unclear communications | • '*If you believe in the future, invest in the future with the xxx fund.*'[55]<br>• '*Our group is proactively contributing to the national goals in combating global warming.*'<br>• '*We aspire to be responsible managers for our clients by ensuring that the way we place our assets creates positive societal impact and financial performance.*'<br>• '*Green bonds allow you to participate in the fight against climate change and the environmental crisis.*' | Commercial claims must be fair, clear and not misleading.[56]<br><br>Omissions that may mislead the average consumer are misleading marketing practices. This may involve omitting or concealing material information or providing it in an unclear, unintelligible or ambiguous manner.[57] |

[53] Article 24.3 MIFID II and Article 4 CBDF Regulation.
[54] Article 6 UCPD
[55] European Commission (DG JUST), 2014, Consumer market study on environmental claims for non-food products, Appendix 5, p. 80
[56] Article 24.3 MIFID II and Article 4 CBDF Regulation
[57] Article 7 UCPD

| Table 1: Bad practices | | |
|---|---|---|
| Practices | Examples | Legal provisions |
| Unsubstantiated, generic claims | '*Green investment*'<br>'*Environmentally friendly*'<br>'*Positive environmental impact*' | Environmental claims are likely to be misleading when they consist of vague and general claims of environmental benefits, without benefits being properly substantiated. For example: 'environmentally friendly', 'good for the environment', 'eco', 'green' and broader claims such as 'conscious' and 'responsible.'[58] |
| Communications on future results | '*Green bonds guarantee you a positive impact on the planet.*' | Preference should be for communications on environmental achievements rather than communications on future environmental performance, which by definition cannot be supported by evidence. This does not prevent companies from communicating about future environmental efforts. However, to avoid any risk of accusations of greenwashing, companies should only do so if they have established a realistic plan with clear objectives and deadlines, involved relevant stakeholders and organised follow up of its commitments by a third party.[59] |

[58] Section 4.1.1 UCPD Guidance
[59] MDEC Compliance Criteria

| Other risky practices | | |
|---|---|---|
| Practice | Examples | Legal provisions and explanations |
| Confusion between Articles 8 and 9 SFDR and impact | '*Article 9-compliant investment funds go even further: They show a desire to have a real social or environmental impact.*'<br>'*The category includes impact products with a clearly identified sustainable development objective (so-called Article 9 products)*.' | Environmental impact claims that create confusion between SFDR categories and impact oriented financial products should be avoided. This practice is particularly common in relation to implying that all Article 9 products are impact oriented products and could be considered misleading. While some Article 9 products may be impact oriented, not all Article 9 products are automatically impact products. Article 9 makes no reference to the concept of investor impact. Some products (such as theme-based funds) can be classified in Article 9 although they do not demonstrate the search for, or the achievement of, a positive impact of the investor in the real world.[60] |

[60] 2DII, 2021, Does the SFDR help the impact-focused retail investor?

| Table 2: Best practice for communicating on impact | | | |
|---|---|---|---|
| Principle | Example of claim | Proof requirement[61] | Warnings to be used in addition to an accurate, clear, and not misleading claim |
| The scope of the environmental impact claim will depend on the level and quality of supporting evidence and the ability to demonstrate:<br>• a clear and detailed intention to have an impact in the real world;<br>• the additional actions carried out;<br>• the additional effects obtained, based on the most scientific measure (or assessment) of the additional effects obtained.<br><br>In all cases, given the difficulties in assessing the impact of the investor, the claim should remain cautious.<br><br>It should be noted that *the financing mechanisms of growing new/undersupplied capital markets and providing flexible capital seem to be the most capable of providing tangible proof of additionality at investor level and are therefore most easy to substantiate.* | '*This fund acts and aims for a positive impact in the real world.*'<br><br>Note: The claim must be supported by the evidence indicated in the column *Proof requirement* and accompanied by the warnings indicated in the column *Warnings to be used in addition to an accurate, clear and not misleading claim.* | 1) Clear and detailed intention to improve the investor's environmental impact through investment.<br>2) Implementation of additional actions to improve investor impact.<br>3) Measurement of additional effects obtained in the real world through investment (investor impact).<br><br>This involves comparing the results obtained to a baseline scenario and substantiating the causal link between actions and results. | It is advisable to accompany such claims with the following disclaimer: '*The methodologies and evidence currently available do not allow for accurate and reliable assessment of the environmental impacts of fund investments.*'<br><br>Any reference to past environmental performance should be accompanied by the following statement: '*Past environmental performance does not predict future environmental performance.*' |

[61] Starting points on methods for substantiating an environmental impact claim are suggested in Appendix 2 of this Guide.

# 6. Conclusion

In a context of the climate emergency, environmental impact claims for a financial product can be a major influence on retail investor decision making.

But the environmental impact of financial products (the assessment of which requires very different techniques and methodologies from that of other goods and services) is not accommodated in the regulatory framework. This Guide attempts to fill that gap by synthesising the most recent work on assessing the environmental impact of a financial product and the variety of different regulatory provisions which are applicable to environmental impact claims in the finance sector.

The recommendations presented in this Guide support and help financial institutions formulate clear, cautious and transparent messages to investors. This approach will help the most ambitious financial institutions differentiate themselves from their competitors through continuing to develop an innovative offer and at the same time ensure their environmental impact claims are legitimate.

Good communication on the environmental impact of a financial product must allow retail clients to be correctly informed while encouraging the promotion and development of innovative products, which in the long term, are capable of making a real contribution to environmental protection and the fight against climate change.

Ultimately however this Guide should only be considered an interim step to assist financial institutions until there is a clear regulatory framework for environmental impact claims of financial products. Regulatory changes at EU and/or national level are much needed in order to provide: a clear definition of investor environmental impact; a method for assessing investor environmental impact for listed and unlisted markets; and a dedicated label to enhance the most ambitious impact approaches. Measures to ensure the quality of sustainability data reported by investee companies and ESG ratings providers is also key.

# References

**Legal sources**

Directive 2014/65/EU (**MiFID II**)
Article 24
*1. Member States shall require that, when providing investment services or, where appropriate, ancillary services to clients, an investment firm act honestly, fairly and professionally in accordance with the best interests of its clients and comply, in particular, with the principles set out in this Article and in Article 25.*
*[..]*
*3. All information, including marketing communications, addressed by the investment firm to clients or potential clients shall be fair, clear and not misleading. Marketing communications shall be clearly identifiable as such.*

Directive 2005/29/EC (**UCPD**)
Article 6
*1. A commercial practice shall be regarded as misleading if it contains false information and is therefore untruthful or in any way, including overall presentation, deceives or is likely to deceive the average consumer, even if the information is factually correct, in relation to one or more of the following elements, and in either case causes or is likely to cause him to take a transactional decision that he would not have taken otherwise:*
*(a) the existence or nature of the product;*
*(b) the main characteristics of the product, such as its availability, benefits, risks, execution, composition, accessories, after-sale customer assistance and complaint handling, method and date of manufacture or provision, delivery, fitness for purpose, usage, quantity, specification, geographical or commercial origin or the results to be expected from its use, or the results and material features of tests or checks carried out on the product;*
*(c) the extent of the trader's commitments, the motives for the commercial practice and the nature of the sales process, any statement or symbol in relation to direct or indirect sponsorship or approval of the trader or the product;*
*(d) the price or the manner in which the price is calculated, or the existence of a specific price advantage;*
*(e) the need for a service, part, replacement or repair;*
*(f) the nature, attributes and rights of the trader or his agent, such as his identity and assets, his qualifications, status, approval, affiliation or connection and ownership of industrial, commercial or intellectual property rights or his awards and distinctions;*
*(g) the consumer's rights, including the right to replacement or reimbursement under Directive 1999/44/EC of the European Parliament and of the Council of 25 May 1999 on certain aspects of the sale of consumer goods and associated guarantees (1), or the risks he may face.*

*2. A commercial practice shall also be regarded as misleading if, in its factual context, taking account of all its features and circumstances, it causes or is likely to cause the average consumer to take a transactional decision that he would not have taken otherwise, and it involves:*
*(a) any marketing of a product, including comparative advertising, which creates confusion with any products, trade marks, trade names or other distinguishing marks of a competitor;*
*(b) non-compliance by the trader with commitments contained in codes of conduct by which the trader has undertaken to be bound, where:*
*(i) the commitment is not aspirational but is firm and is capable of being verified,*
*and*
*(ii) the trader indicates in a commercial practice that he is bound by the code;*

Article 7
*1. A commercial practice shall be regarded as misleading if, in its factual context, taking account of all its features and circumstances and the limitations of the communication medium, it omits material information that the average consumer needs, according to the context, to take an informed*

*transactional decision and thereby causes or is likely to cause the average consumer to take a transactional decision that he would not have taken otherwise.*
*2. It shall also be regarded as a misleading omission when, taking account of the matters described in paragraph 1, a trader hides or provides in an unclear, unintelligible, ambiguous or untimely manner such material information as referred to in that paragraph or fails to identify the commercial intent of the commercial practice if not already apparent from the context, and where, in either case, this causes or is likely to cause the average consumer to take a transactional decision that he would not have taken otherwise.*
*3. Where the medium used to communicate the commercial practice imposes limitations of space or time, these limitations and any measures taken by the trader to make the information available to consumers by other means shall be taken into account in deciding whether information has been omitted.*
*4. In the case of an invitation to purchase, the following information shall be regarded as material, if not already apparent from the context:*
*(a) the main characteristics of the product, to an extent appropriate to the medium and the product;*
*(b) the geographical address and the identity of the trader, such as his trading name and, where applicable, the geographical address and the identity of the trader on whose behalf he is acting;*
*(c) the price inclusive of taxes, or where the nature of the product means that the price cannot reasonably be calculated in advance, the manner in which the price is calculated, as well as, where appropriate, all additional freight, delivery or postal charges or, where these charges cannot reasonably be calculated in advance, the fact that such additional charges may be payable;*
*(d) the arrangements for payment, delivery and performance, if they depart from the requirements of professional diligence;*
*(e) for products and transactions involving a right of withdrawal or cancellation, the existence of such a right;*
*(f) for products offered on online marketplaces, whether the third party offering the products is a trader or not, on the basis of the declaration of that third party to the provider of the online marketplace.*
*4a. When providing consumers with the possibility to search for products offered by different traders or by consumers on the basis of a query in the form of a keyword, phrase or other input, irrespective of where transactions are ultimately concluded, general information, made available in a specific section of the online interface that is directly and easily accessible from the page where the query results are presented, on the main parameters determining the ranking of products presented to the consumer as a result of the search query and the relative importance of those parameters, as opposed to other parameters, shall be regarded as material. This paragraph does not apply to providers of online search engines as defined in point (6) of Article 2 of Regulation (EU) 2019/1150 of the European Parliament and of the Council.*
*5. Information requirements established by Community law in relation to commercial communication including advertising or marketing, a non-exhaustive list of which is contained in Annex II, shall be regarded as material.*

Article 12
*Member States shall confer upon the courts or administrative authorities powers enabling them in the civil or administrative proceedings provided for in Article 11:*
*(a) to require the trader to furnish evidence as to the accuracy of factual claims in relation to a commercial practice if, taking into account the legitimate interest of the trader and any other party to the proceedings, such a requirement appears appropriate on the basis of the circumstances of the particular case;*
*and*
*(b) to consider factual claims as inaccurate if the evidence demanded in accordance with (a) is not furnished or is deemed insufficient by the court or administrative authority.*

Regulation (EU) 2020/852 (Taxonomy Regulation)

Regulation (EU) 2019/2088 (SFDR)

Regulation (EU) 2019/1156 (CBDF Regulation)

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**Reports**

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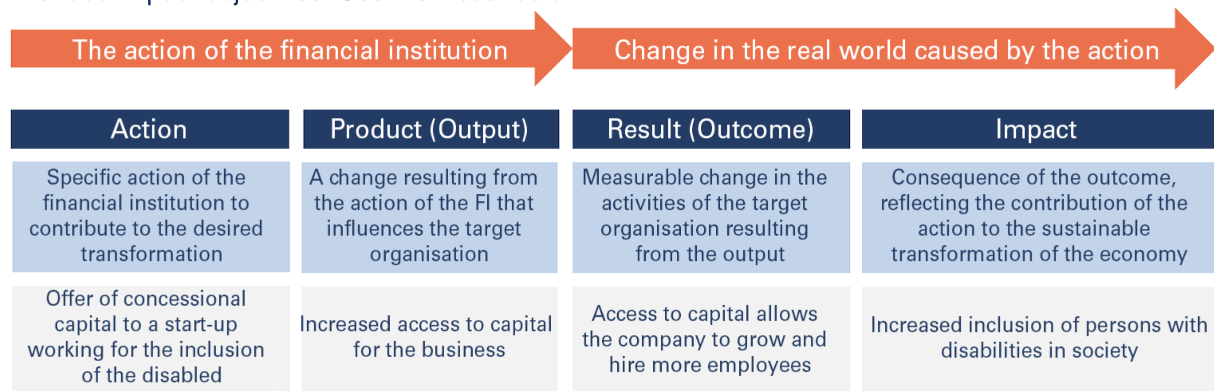
World Bank, 2012, Impact evaluation in Practice

World Bank, 2016, Impact evaluation in Practice

# Appendix 1: Glossary

**Best-in-class strategy**
An approach in which the environmental, social and governance (ESG) performance of a company or issuer is compared to that of its peers (for example, in the same industry or category) on the basis of a sustainability score. All companies or issuers with a rating above a defined threshold are considered investable. This threshold can be set at different levels (for example 30% of the best performing companies or all companies that achieve a minimum ESG score).

**Causal chain**
A chain of changes caused by each other linking the actions specific to the financial institution and the intended impact objectives. See the visual below.




**EASA**
European Advertising Standards Alliance. It is the independent single authoritative voice on advertising self-regulation issues in Europe.

**Environmental claim**
The a 'practice of suggesting or otherwise creating the impression (in the context of a commercial communication, marketing or advertising) that a product or a service, is environmentally friendly (i.e. it has a positive impact on the environment) or is less damaging to the environment than competing goods or services.'[62]

**Environmental impact claim**
Any message or representation, which is not mandatory under European Union law or national law, including text, pictorial, graphic or symbolic representation, in any form, including labels, brand names, company names or product names, in the context of a commercial communication, which states or implies that a financial product allows the investor to have a positive impact on the environment.'[63]

**ESG analysis**
Gathering information on how an investment target manages and behaves in environmental, social and governance terms. When an investor wants to know to what extent potential investments (e.g. companies, countries and issuers) are exposed to ESG risks and opportunities and how they are managed, it performs an ESG analysis.

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[62] Extract of the definition contained in the MDEC Compliance Criteria.
[63] Definition suggested by 2DII, based on the proposal for a directive amending Directive 2005/29/EC: This proposal suggests incorporating into law the following definition: 'any message or representation, which is not mandatory under Union law or national law, including text, pictorial, graphic or symbolic representation, in any form, including labels, brand names, company names or product names, in the context of a commercial communication, which states or implies that a product or trader has a positive or no impact on the environment or is less damaging to the environment than other products or traders, respectively, or has improved their impact over time.'

**ESG score**
The methodology used to calculate a score (weighting, indicators etc.) based on an ESG analysis. As they are not harmonised, the results of this analysis may vary from analyst to analyst.

**Exclusions**
The practice of excluding from the investment universe companies that do not meet minimum socio-environmental criteria. This may be based on sectoral exclusions (alcohol, tobacco, weapons, GMOs, nuclear etc.) or normative exclusions (non-compliance or non-ratification of international treaties and conventions).

**Environmental impact**
The impact of an investment can be defined as the change in a specific environmental parameter that is caused by the investor's actions.

**Investee company environmental impact**
The environmental impact of the *investee company* corresponds to the change (positive or negative) that the investee company's activities cause to society, the environment and the climate (for example the progression of a company's GHG emissions).

**Investor environmental Impact**
The environmental impact of the *investor* is defined as the change that the investor's actions bring about for the business of the investee company (for example the actions of an investor may reduce the GHG emissions of an investee company's production model).

**Primary financial market**
The primary market, as opposed to the secondary market, is the meeting place between companies seeking capital to ensure their development and capital holders, particularly through IPO or capital increases. All public limited companies issue shares but not all are listed on the stock exchange.

**Secondary financial market**
Securities issued on the primary market are then traded on the secondary market, which can be considered the second-hand market for price determination. The issuer is no longer involved.

**Shareholder engagement**
Seeking to influence investee companies by using shareholder dialogue and voting rights, in order to encourage them to improve their ESG practices. This engagement may take the form of direct interaction between an investor and an investee company or a collaborative engagement, in which a number of investors come together to conduct a joint dialogue.

**SRO**
Self-Regulatory Organisations: independent national advertising standards organisations. See the list of SROs for advertising in Appendix 3.

**Sustainable economic activity**
An economic activity that contributes to an environmental objective established in the Taxonomy Regulation (climate change mitigation, adaptation to climate change, sustainable use and protection of aquatic and marine resources, transition to a circular economy, prevention and reduction of pollution and protection and restoration of biodiversity and ecosystems), provided that such investments do not significantly undermine any other objectives and that companies follow good governance practices.

# Appendix 2: Existing methods to substantiate an environmental impact claim

Warning: The methods and tools presented in this Appendix are, for the most part, still under construction. Moreover, their use does not prejudge compliance with legal provisions prohibiting greenwashing.

***The work of the Impact Management Project as developed by researchers from the University of Zurich on mechanisms allowing investors to have a positive impact through their investments***

Academic research, in particular the work of the Impact Management Project, as further developed by researchers from the University of Zurich, has identified the various mechanisms that allow an investor to improve his impact potential. These mechanisms, ranked in descending order according to the current level of proof on their ability to generate impact are:

1. Grow new/undersupplied capital markets;
2. Provide flexible capital (the provision of financing on advantageous terms);
3. Active engagement with investee companies (in the form of shareholder engagement or non-financial support);
4. Signal to other stakeholders that impact matters (in particular via a price signal sent to the market through the capital allocation choices made by the financial product).

However, these mechanisms with the best-established effectiveness (Bullets 1 to 3 above) are not widely used today by the financial products most frequently offered to retail investors. Indeed, most consumer sustainable financial products rely mainly on capital allocation strategies on secondary markets that are only likely to change market prices when the necessary conditions are met. These financial products use the price signalling mechanism (Bullet 4) which is considered by research to have an uncertain impact potential at best (given the need for joint action by a large share of the market and the absence of a common and homogeneous price signal). These financial products are based on:

- Exclusions;
- Selection on ESG scoring bases (best in class, best-in universe etc.);
- Theme-based investment;
- Investment aligned with a 1.5° scenario;
- Investment in green bonds.

Similarly, the *Active engagement* mechanism (Bullet 3) as adapted to listed markets also has significant limitations regarding the requirement to prove additionality of the individual share. The mechanisms *Grow new/undersupplied capital markets* (Bullet 1) and *Provide flexible capital* (Bullet 2) are best capable of providing tangible proof of additionality. However, these mechanisms favour unlisted markets, which is currently not really a focus for retail investment.

***The evaluation grid of the potential to contribute to a sustainable transformation:***

The work of the Impact Place group convened at the initiative of Institut de la Finance Durable has resulted in an assessment grid of the potential contribution to a sustainable transformation.[64] This grid, and the accompanying notice, allow investment funds to assess their contribution/impact potential and adapt their communication accordingly. The grid strives to qualify the three pillars of impact (intentionality, additionality and impact measurement), based on 32 questions organised around four main sections:

[64] Finance For Tomorrow, task force impact: A scale grid for assessing the potential contribution of a fund to sustainable transformation. Available here: https://institutdelafinancedurable.com/actualites/publications-groupe-de-place-impact/

A Theory of Change (with two subsections*: Definition of general objectives* and *Definition of actions deployed*) which assesses the quality and robustness of the fund's theory of change;
B Operational implementation that assesses the gap between the fund's theory of change and the actions actually implemented;
C Follow-up of results (with two sub-sections: *Results monitoring procedure* and *Quality of results obtained*);
D Communication and consistency that analyses the quality of communication associated with the fund from the point of view of the impact and alignment of other fund and GSP practices with the stated objective of contributing to sustainable transformation.

Section A identifies on what and how the fund intends to have an impact. Section B details the actions that have actually been deployed to this end (beyond ambitions and promises only). Section C presents the procedures for measuring results in terms of contribution to the transition and what they have revealed so far.

Logically, evidence of environmental intention can only be used to justify environmental intention (not actual environmental impact). Similarly, evidence on actions (with potential environmental impact) may not be used for anything other than evidence that actions (with potential environmental impact) have actually been carried out. Finally, the observation of positive environmental impact goes only so far and does not provide certainty that the observed impact can be credited to the financial product.

In other words, the evidence gathered will justify either: (i) the intention to have an environmental impact; or (ii) the implementation of actions with a high potential for environmental impact; or (iii) the achievement of impact at the investee company level. It must not be used, without distinction, to justify the environmental impact of the financial product.

The definitive proof of the impact of the financial product cannot be deduced directly from these three types of evidence (taken alone or together) since positive impact at the level of the investee companies could be due to factors external to the financial product (e.g. a change of management direction of the investee company) regardless of its intentions and the actions taken by the financial product.

On the other hand, simultaneously obtaining good ratings in these three blocks (or sections of the grid) contributes to providing evidence that suggests a positive environmental impact of the financial product. The financial product has shown a strong intention to have environmental impact; it has also deployed actions with high impact potential. And an improvement in the impact of the investee companies has indeed been observed. In this case, the level of confidence in the financial product's ability to improve investor impact potential is high.

***ISO 14097, a framework of principles and requirements for the assessment and reporting of climate change-related investments and financing activities***
This standard is based on double materiality and stipulates that: 'any financing or investment decision has an impact, positive or negative, on the climate and/or can in turn be affected by climate change.'

The ISO 14097 standard for financial institutions provides principles, requirements and guidance for defining, monitoring, evaluating and reporting on the actions of financial institutions related to climate change and their contributions to achieving climate goals. They can be applied by investors who undertake deliberate climate actions as well as by investors without climate goals or strategies.

The standard is built around the Theory of Change (TOC) approach which allows formalising and describing the causal links between the objective established by the investor, the climate action that the investor plans to undertake to achieve the objective, the result(s) of the action and finally the result that will lead to the impact. One must therefore ensure this causal link is established. In this sense, the standard also emphasises that impact must be based on additionality, that an investor does not automatically take credit for the investee company's climate actions (i.e. changes in GHG emissions in the real world) if the climate action of the investor was not one of the main drivers of the variation in GHG emissions.

The investor must describe and document a plan to achieve its impact objectives. The plan describes the actions taken to achieve the impact objectives and should include:
- climate actions that will be used to achieve the impact objectives of the portfolio and the investee company (climate actions include the elements of capital allocation, commitment, conditional financing etc. without being prescriptive on the strategies used);
- the method(s) put in place to establish the causal relationship or link between the climate action(s), the resources mobilised and their impact objectives and targets, which must:
    - indicate how expected achievements and outcomes will be taken into account in the process of justifying the actual impact of climate action; and
    - understand the data collection processes, the type of data needed, the sources of data and information, and the frequency of monitoring climate actions.

Finally, the standard proposes a framework for communicating climate actions in the form of a *climate report* which should include a description of the causal relationship or the link between the climate action of the investor and the actual impact.

If causality cannot be established, an indication of factors that do not permit causation must be provided. Thus the search for additionality in the results is required and must be transparent. The investor is also required to mention whether the action taken is individual or is part of a collective framework.

***Methods of impact assessment***
To demonstrate positive environmental impact as a result of the actions taken, financial institutions can draw on decades of expertise from the valuation profession, which has a long tradition of evaluating social change.

Indeed, evaluation is a discipline that has been developed over decades with established societies (European Evaluation Society, UK Evaluation Society, American Evaluation Association, Société Française de l'Evaluation etc.) and dedicated academic journals (American Journal of Evaluation, Evaluation, Evaluation review, New Directions for Evaluation etc.). Impact assessment is particularly widespread in the field of public policies (development aid, support for innovation etc.). Flagship publications from international organisations such as the OECD[65], the World Bank[66] and the Asian Development Bank[67] have helped to structure the field and harmonize practices. A similar trend of

[65] OECD (2019), "Better Criteria for Better Evaluation - adapted definitions and principles for use", DAC Network on Development Evaluation
[66] World Bank (2012, 2016), impact evaluation in practice
[67] White, H., and Raitzer, D., (2017). Impact Evaluation of Development Interventions: A Practical Guide, ADB

decision-making based on quantified results has been observed in the field of philanthropy for about fifteen years (indeed impact investing was initiated by the Rockefeller Foundation in 2007).

Impact assessments seek to validate and quantify the existence of a cause-effect relationship between an intervention and an outcome. They are based on *quantitative, experimental (such as randomised controlled trials) or quasi-experimental (such as double-difference or synthetic control) methods* that assess effects against a counterfactual (estimated) scenario where intervention would not have occurred.

Other, less quantitative methods can also help support the contribution of an intervention to an outcome. They include qualitative methods (surveys, interviews, focus groups) that interview stakeholders as well as methods of validating the theory of change that verify that the various anticipated steps have occurred.

While quantitative methods can provide strong evidence as to whether an effect has occurred, qualitative and validation methods of the theory of change cannot provide such a conclusion but are more focused on understanding how the effect occurred (or did not take place). In this respect, the two types of analysis are complementary and evaluation experts recommend combining them to obtain an optimal understanding of the relationship between the intervention and the observed outcome.

# Appendix 3: EASA list of members (national SROs)

| Country | Self-Regulatory Organisation (SRO) |
|---|---|
| Austria | Österreichischer Werberat (ÖWR) |
| Belgium | Jury voor Ethische Praktijken inzake reclame / Jury d'Ethique Publicitaire (JEP) |
| Bulgaria | Национален съвет за саморегулация (NCSR) |
| Cyprus | Φορέας Ελέγχου Διαφήμισης (CARO) |
| Czechia | Rada pro reklamu (CRPR) |
| Finland | Mainonnan eettisen neuvosto / Liiketapalautakunta (MEN/LTL) |
| France | Autorité de Régulation Professionnelle de la Publicité (ARPP) |
| Germany | Wettbewerbszentra le (WBZ) |
| Germany | Deutscher Werberat (DWR) |
| Greece | Συμβούλιο Ελέγχου Επικοινωνίας (SEE) |
| Hungary | Önszabályozó Reklám Testület (ÖRT) |
| Ireland | Advertising Standards Authority for Ireland (ASAI) |
| Italy | Istituto dell'Autodisciplina Pubblicitaria (IAP) |
| Luxembourg | Commision Luxembourgeoise pour l'Ethique en Publicité (CLEP) |
| Netherlands | Stichting Reclame Code (SRC) |
| Poland | Związek Stowarzyszeń Rada Reklamy (RR) |
| Portugal | Auto Regulação Publicitária (ARP) |
| Romania | Consiliul Român pentru Publicitate (RAC) |
| Serbia | Nacionalna asocijacija za etičke standarde u oglašavanju (NAESO) |
| Slovakia | Rada Pre Reklamu (SRPR) |
| Slovenia | Slovenska Oglaševalska Zbornica (SOZ) |
| Spain | Asociación de Autorregulación de la Comunicación Comercial (AUTOCONTROL) |
| Sweden | Reklamombudsma nnen (Ro.) |
| Switzerland | Commission Suisse pour la Loyauté/Schweizerischen Lauterkeitskommission/Commissione Svizzera per la Lealtà (CSL/SLK) |
| Turkey | Reklam Özdenetim Kurulu (RÖK) |
| United Kingdom | Advertising Standards Authority (ASA) |
| United Kingdom | Clearcast |

About our funder and the project: This project is funded by the EU’s Horizon 2020 research and innovation program under Grant Agreement No 834345. LEVEL EEI aims at making the financial products contributing to energy efficiency and sustainable energy more competitive. This work reflects only the author's view, and the funder is not responsible for any use that may be made of the information it contains.

This Guide is part of the Retail Investing Research Program at 2DII which is one of the largest publicly funded research programmes on the supply, demand, distribution and policy aspects of retail investment markets in Europe.