Regulatory Insights

June 2024

Anti-Money Laundering

AML Regulation, MLD6 and AMLA Regulation published in Official Journal	The following legislation has been published in the Official Journal of the European Union on 19 June 2024: • the Regulation on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing ((EU) 2024/1624) (AML Regulation); • the Regulation establishing the Anti-Money Laundering Authority (AMLA) ((EU) 2024/1620) (AMLA Regulation); and • the Sixth Money Laundering Directive ((EU) 2024/1640) (MLD6). The legislative package will come into force on 9 July 2024. For more information on the above please refer to our regulatory insights of April 2024.
EBAs contribution to the new AML/CFT regime	On 26 June 2024, EBA issued a press release welcoming the entry into force of the new EU Anti-Money Laundering (AML) framework. Based on the AMLA Regulation EBA will transfer its AML/CFT mandates, powers and resources to the new AML/CFT authority (AMLA) by the end of 2025.The EBA will continue collaborating closely with AMLA during this period. During the transition phase, the EBA will assist Member State competent authorities in preparing for AMLA and will coordinate the EU Commission's AMLA taskforce. EBA relevant publication on its contribution to the new AML/CFT regime can be found here. Over the course of 2024 and in 2025, the EBA's AML/CFT priorities will include: ❑ developing a methodology for selecting financial institutions for direct EU-level AML/CFT supervision ❑ creating a common risk assessment methodology ❑ defining the necessary information for carrying out customer due diligence ❑ establishing criteria to determine the seriousness of breaches of AML/CFT provisions.
New section on CySEC's website regarding Terrorism Financing (TF) / **Proliferation Financing (PF)**	CySEC on 20 June 2024 published circular C467 to inform the Regulated Entities that section «Terrorism Financing (TF)/Proliferation Financing (PF)» has been added to CySEC's website. This includes useful information and publications on TF/PF, as well as relevant notifications. CySEC urges the Regulated Entities to continuously monitor, inter alia, the section «Terrorism Financing (TF)/Proliferation Financing (PF)» on CySEC's website, including the notifications to be sent for useful information and publications on TF/PF, through the RSS Service, ensuring their full compliance with their relevant legal obligations for preventing TF and PF.

Asset Management

EFAMA quarterly statistics for Q1 2024

EFAMA has published on 25 June 2024 its International Quarterly Statistics for Q1 2024.

The global investment fund market saw positive growth in Q1 2024, with net assets increasing by 2.9% in euro terms, reaching EUR 69 trillion. In US dollar terms, this represented a 0.7% rise to USD 75 trillion. The United States and Europe, the two largest fund markets, experienced local currency net asset increases of 6% and 4.5%, respectively.

Key highlights include:

1.Long-term Funds:

- Net inflows: EUR 497 billion, up from EUR 312 billion in Q4 2023.
- Highest net inflows were in the United States (EUR 222 billion), followed by Asia-Pacific (EUR 149 billion) and Europe (EUR 87 billion).

2. **Equity Funds**:

- Net inflows: EUR 193 billion, compared to EUR 173 billion in Q4 2023.
- Highest net sales: United States (EUR 84 billion), China (EUR 44 billion), and Japan (EUR 38 billion).
- Europe saw a turnaround with EUR 4 billion in net inflows from EUR 6 billion in net outflows in Q4 2023.

3. **Bond Funds**:

- Net inflows: EUR 340 billion, significantly higher than EUR 137 billion in the previous quarter.
- Highest net sales: United States (EUR 170 billion) and Europe (EUR 95 billion).

4. **Multi-Asset Funds**:

- Continued net outflows: EUR 76 billion, slightly up from EUR 72 billion in Q4 2023.
- Largest outflows: China (EUR 31 billion) and United States (EUR 29 billion).

5. **Money Market Funds (MMFs):**

- Net inflows: EUR 256 billion, down from EUR 333 billion in Q4 2023.
- China's MMFs saw a significant rebound with EUR 155 billion in net inflows compared to EUR 15 billion net outflows in Q4 2023.
- United States MMFs: EUR 53 billion in net inflows, down from EUR 221 billion in Q4 2023.
- Europe MMFs: EUR 21 billion in net inflows, down from EUR 121 billion in Q4 2023.

Overall, the investment fund market demonstrated strong performance in Q1 2024, with substantial net inflows across various fund types and regions, despite some areas experiencing outflows.

Asset Management (2)

Negotiating mandate on retail investment package

The EU Council has announced on 12 June 2024 that it has agreed its negotiating position on the retail investment package consisting of the proposed Directive on retail investment protection (referred to as an "Omnibus Directive") and the proposed Regulation amending the PRIIPs Regulation (1286/2014, the "Regulation").

The retail investment package aims to support individual consumers who wish to invest on the EU's capital markets, by better protecting their investments, providing them with clearer information about investment products and ensuring more transparency and disclosure.

The main changes proposed by the EU Council relate to inducements and value for money. In particular, the EU Council has decided to remove the proposed ban on inducements received for execution-only sales, while strengthening accompanying safeguards. It has also introduced a new concept of "value for money".

The EU Council agrees that ESMA and EIOPA should develop EU supervisory benchmarks to help national supervisors identify investment products that fail to offer value for money. The legal texts (dated 7 June 2024) of the EU Council's negotiating mandate on the proposed Omnibus Directive and the proposed Regulation have also been published.

Banking & Finance (1)

EBA updates the Pillar 3 disclosure framework

On 21 June 2024, the EBA published the final draft of Implementing Technical Standards (ITS) on public disclosures by institutions, reflecting changes in the Pillar 3 disclosure framework introduced by the Capital Requirements Regulation III (CRR 3). These ITS are designed to ensure that market participants have adequate information to assess the risk profiles of institutions and to understand their compliance with CRR 3 requirements. Detailed information on CRR 3 can be found further below.

The new ITS implement CRR 3 prudential disclosures by introducing new requirements on:

- output floor:
- credit risk;
- market risk;
- Credit Valuation Adjustment (CVA) risk;
- operational risk; and
- a transitional disclosure on exposures to crypto – assets.

These ITS comprise the first Pillar 3 deliverable that featured in the EBA Roadmap on strengthening the prudential framework which was released in December 2023. The ITS will repeal EU Commission Implementing Regulation (EU) 2021/637 to make technical standards more user-friendly for institutions.

Capital Requirements Regulation (CRR3) and Capital Requirements Directive (CRD6) published in the EU official journal

On 19 June 2024, the final texts of the EU banking package known as CRD6 and CRR3 were published in the Official Journal of the EU.

The new rules, issued as part of Basel 3 framework, have been transposed in the following regulatory products respectively:

- Directive (EU) 2024/1619 of the European Parliament and of the Council amending Directive 2013/36/EU as regards supervisory powers, sanctions, third-country branches, and environmental, social and governance risks.
- Regulation (EU) 2024/1623 of the European Parliament and of the Council amending Regulation (EU) No 575/2013 as regards requirements for credit risk, credit valuation adjustment risk, operational risk, market risk and the output floor.

CRR3: Capital requirements regulation

CRR3 introduces several changes to the calculation of Pillar 1 capital requirements, along with updates to the corresponding reporting and disclosure requirements. These changes primarily implement the Basel Committee's finalised Basel III framework, initially published in December 2017. While the rules of CRR3 will in general become applicable on 1 January 2025, the rules regarding market risk ("Fundamental Review of the Trading Book"- FRTB) will be postponed by one year to ensure consistency in application with other large jurisdictions as confirmed by the EU Commission and ECB in their **joint conference on 18 June 2024.**

Key aspects of CRR3 include:

- Credit risk: revisions to the standardised and internal ratings-based approaches for calculating credit risk.

Banking & Finance (2)

- ❑ Credit Valuation Adjustment (CVA) risk: updates to the approaches for CVA risk to better capture CVA risk and align with major adjustments to the market risk framework.
- ❑ Operational risk: Introduction of revised standardised approach for operational risk that will be applicable by all banks.
- ❑ Market risk: revised trading book boundary and adoption of the FRTB approaches for capital calculation purposes.
- ❑ Output floor: introduction of an output floor to limit the variability of risk-weighted assets calculated by internal models.

CRD6: Capital Requirements Directive

CRD6 includes several revised rules regarding supervisory tools, particularly the access of third-country banks to the EU's market. It also entrenches the requirement to include ESG-related risks in banks' governance and risk management within EU law.EU member states must now transpose the requirements of CRD6 into national law by 11 January 2026. There are a few key exceptions, such as Article 21(c) on branch requirements, which will only apply from 11 January 2027.

Key aspects of CRD6 include:

- ❑ Supervisory powers and sanctions: enhanced powers for supervisors to impose sanctions and corrective measures.
- ❑ Third-country branches: stricter requirements for third-country banks wishing to operate within the EU, ensuring they meet EU standards.
- ❑ ESG risks: mandating that banks incorporate ESG risks into their governance structures and risk management processes, reflecting the growing importance of sustainable finance.

The implementation of CRR3 and CRD6 will have significant implications for banks operating within the EU. These institutions will need to adjust their risk management and reporting frameworks to comply with the new requirements.

Key areas of focus will include:

- ❑ Ensuring high-quality implementation of the revised credit, market, and operational risk frameworks.
- ❑ Enhancing data collection and reporting capabilities to meet new reporting and disclosure requirements.
- ❑ Extending pricing and capital planning capacity to cope with the increased complexity of the output floor.
- ❑ Incorporating ESG factors into governance and risk management practices, potentially requiring substantial changes in strategy and operations.

Banking & Finance (3)

EBA consults on draft RTS on operational risk loss under CRR

On 6 June 2024, the EBA published a consultation paper (EBA/CP/2024/13) on three sets of draft Regulatory Technical Standards (RTS) under the Capital Requirements Regulation (575/2013) (CRR). These RTS aim to standardise the collection and recording of operational risk losses and provide clarity on exemptions for the calculation of the annual operational risk loss and adjustments to the loss data set that banks must perform in case of merged or acquired entities or activities.

More specifically, the draft RTS include:

1. Draft RTS on “Establishing a risk taxonomy for operational risk”:

This provides a list of operational risk event types, categories, and attributes that institutions must use when recording operational risk loss events under Article 317(9) of CRR, in line with the current framework and international standards.

2. Draft RTS on “Conditions for calculating annual operational risk loss”:

This outlines the conditions under which it would be unduly burdensome for an institution to calculate the annual operational risk loss under Article 316(3) of CRR. It recognises cases when it would be disproportionate for an institution to promptly calculate the annual operational risk loss and allows for a temporary waiver from this requirement.

3. Draft RTS on “Adjustments to an institution’s loss data set”:

This provides guidelines on the currency and risk taxonomy to be used when incorporating the loss data set of merged or acquired entities or activities under Article 321(2) of CRR.

The deadline for responses is **6 September 2024**.

ECB consults on guide outsourcing cloud services

On 3 June 2024, ECB published a consultation on a draft guide for banks on outsourcing cloud services to cloud service providers. The guide is intended to clarify ECB’s expectations in this area and covers governance of outsourcing, data security measures, firms’ exit strategies, and termination rights. It also addresses the availability and resilience of cloud services, oversight monitoring, and internal audits.

Where appropriate, ECB has included examples of good practice observed during its supervisory activities.

The guide is not legally binding and should be read alongside the Regulation on Digital Operational Resilience for the Financial Sector (EU) 2022/2554 (DORA) and EBA’s guidelines on cloud outsourcing arrangements (EBA/GL/2019/02).

The deadline for responses is **15 July 2024**.

Digital Finance & Fintech

EBA guidelines for management and shareholder suitability under MICAR	On 27 June 2024, EBA and ESMA jointly published guidelines on the suitability criteria for members of the management body and the assessment of shareholders and members with qualifying holdings for issuers of Asset Reference Tokens (ARTs) and Crypto-Asset Service Providers (CASPs) under the Markets in Crypto Assets regulation (MiCAR). These guidelines represent a significant step in EBA and ESMA's ongoing efforts to promote transparency, security, and effective regulation within the crypto-assets market. They complement the recently released governance package. The first set of guidelines focuses on ensuring that issuers of ARTs and CASPs have appropriate management bodies in place, thereby enhancing trust in the financial system. Strong governance arrangements are essential for building confidence in these assets and services, thereby fostering a healthy crypto-asset ecosystem. The guidelines establish common criteria for evaluating the knowledge, skills, experience, reputation, honesty, integrity, and time commitment of members of the management body to ensure effective oversight and management of these entities. The second set of guidelines addresses the assessment of the suitability of shareholders or members holding qualifying stakes in supervised entities. This assessment is crucial as it directly influences the gatekeeping function exercised by supervisory authorities, given the significant impact these individuals can have on the management of the entity. The guidelines provide competent authorities with a standardised methodology to evaluate the suitability of such shareholders and members, both for authorisation as ARTs issuers or CASPs and for conducting prudential assessments of proposed acquisitions.
European Commission launches consultation on AI in the financial sector	The EU Commission has published on 18 June 2024 a consultation paper on the use of Artificial Intelligence (AI) in the financial sector, seeking to identify the main use cases and the benefits, barriers and risks related to the development of AI applications. The input received will support the EU Commission in its implementation of the EU's AI Act, which is expected to come into force in July 2024, and which is designed to complement the existing financial services acquis. The deadline for responses is **13 September 2024**.

Digital Finance & Fintech (2)

EBA's Latest MiCA Final Reports

EBA is advancing with the release of multiple final reports that include draft Regulatory Technical Standards ("RTS"), Implementing Technical Standards ("ITS"), and guidelines pursuant to the Markets in Crypto Assets Regulation ("MiCA")

On 19 June 2024, the EBA published the following final reports:

- Final report on guidelines establishing the common reference parameters of the stress test scenarios for the liquidity stress tests ref;
- Final report on draft RTS on supervisory colleges;
- Final report on draft RTS on the methodology to estimate the number and value of transactions associated to uses of asset-referenced tokens as a means of exchange and of e-money tokens denominated in a currency that is not an official currency of a member state; and
- Final report on draft ITS on the reporting on asset-referenced tokens and on e-money tokens denominated in a currency that is not an official currency of a member state.

On 13 June 2024, the EBA published the following final reports:

- Final report on guidelines on recovery plans;
- Final report on draft RTS on adjustment of own funds requirements and stress testing of issuers of asset-referenced tokens and of e-money tokens subject to such requirements;
- Final report on draft RTS specifying the procedure and timeframe to adjust the own funds requirements for issuers of significant asset-referenced tokens or of e-money tokens subject to such requirements;
- Final report on draft RTS specifying the liquidity requirements of the reserve of assets;
- Final report on draft RTS specifying the highly liquid financial instruments with minimal market risk, credit risk and concentration risk; and
- Final report on draft RTS specifying the minimum contents of the liquidity management policy and procedures.

On 6 June 2024, the EBA published the following final reports:

- Final report: on draft RTS specifying the requirements for policies and procedures on conflicts of interest for issuers of ARTs under Article 32(5) of MiCA.
- Final report**:** on draft RTS on the minimum content of the governance arrangements on the remuneration policy under Article 45 of MiCA.
- Final report**:** on guidelines on the minimum content of the governance arrangements for issuers of ARTs .

Securities & Markets

EBA-ESMA discussion paper on enhancing the prudential frameworks for investment firms

On 3 June 2024, EBA and ESMA released a discussion paper concerning the potential review of the prudential framework for investment firms. This paper seeks early stakeholder feedback to shape the response to the EU Commission's call for advice (CfA).

Additionally, EBA initiated a voluntary data collection exercise to assess the potential impact of proposed changes discussed in the paper.

The discussion paper addresses various critical areas, including:

- Evaluation of current prudential requirements
- Analysis of existing methodologies
- Identification of risks not currently addressed by the framework

It also explores implications of the new EU Banking package (CRD VI and CRR 3) on topics such as the trading book, the Fundamental Review of the Trading Book (FRTB), and Credit Valuation Adjustments (CVA). The paper considers extending prudential consolidation and regulations to include crowdfunding and crypto-assets service providers. It provides insights into how the Investment Firms Directive and Investment Firms Regulation (IFD/IFR) interact with requirements applicable to UCITS management companies and AIFMs offering MiFID services ancillary or engaging in activities related to crypto-assets.

Furthermore, the discussion covers aspects related to remuneration across investment firms, AIFMs, and UCITS management companies. This includes the scope of application, remuneration policies, requirements for variable remuneration, oversight, disclosure, and transparency. Lastly, it briefly discusses the treatment of firms currently outside prudential regulation but active in commodity markets.

Concurrently, an ad-hoc data collection aimed at competent authorities, investment firms, UCITS management companies, and AIFMs has been launched alongside the discussion paper.

Stakeholders are invited to submit their comments by **3 September 2024**.

EBA and ESMA will jointly prepare a report in response to the CfA, providing a comprehensive assessment of the IFR and IFD provisions and their interaction with other regulatory frameworks.

Securities & Markets (2)

IOSCO publishes report on good practices in relation to leveraged loans and CLOs

On 3 June 2024, IOSCO released its final report "Leveraged Loans and Collateralised Loan Obligations (CLOs): Good Practices for Consideration (FR03/2024)".The report assesses the transparency of these markets and the potential for conduct-related issues. It outlines 12 good practices aimed at guiding market participants in decision-making within these sectors, organised into five themes:

1. Origination and refinancing based on a sound business premise;

2. Transparency in EBITDA and loan documentation;

3. Strengthening alignment of interests from loan origination to end investors;

4. Addressing the interests of various market participants throughout the intermediation chain;

5. Disclosure of information on an ongoing basis.

The Final Report incorporates feedback gathered during a public consultation launched on 14 September 2023, reflecting valuable insights from stakeholders.

ESAs publish joint opinion on SFDR

On 18 June 2024, the three European Supervisory Authorities (EBA, EIOPA, and ESMA – ESAs) jointly published an opinion on the assessment of the Sustainable Finance Disclosure Regulation (SFDR). This opinion follows public and targeted consultations initiated by the EU Commission in September 2023, aimed at gathering feedback on the implementation and operational aspects of the SFDR.

The ESAs focus on introducing straightforward and comprehensible categories for financial products. They propose two voluntary categories, "sustainable" and "transition," which financial market participants should adopt to clarify the objectives of their products. The rules governing these categories should have clear objectives and criteria to mitigate risks related to greenwashing.

Furthermore, the ESAs recommend that the EU Commission consider implementing a sustainability indicator to assess financial products such as investment funds, life insurance, and pension products.

In addition to categorisation and indicators, the opinion addresses the following key areas:

- ❑ Ensuring appropriate disclosures for products that do not fit into the two categories to minimise greenwashing.
- ❑ Enhancing the definition of sustainable investments.
- ❑ Simplifying how disclosures are presented to investors.
- ❑ Providing technical recommendations on which products should fall under the SFDR's scope and how to improve disclosures regarding investments' adverse impacts on people and the environment.
- ❑ Emphasising the importance of consumer testing before proposing any policy changes to review the SFDR, including the introduction of a categorisation system and/or an indicator

More precisely:

I. Categorisation system

The ESAs underscore the challenges associated with classifying products under Article 8 or Article 9 of the SFDR. They propose that these challenges could be addressed by introducing new categories that are straightforward and based on clear, objective criteria or thresholds. These new categories would replace the current distinctions under Article 8 and 9 of the SFDR, eliminating the differentiation between products that promote environmental/social characteristics and those with a sustainable investment objective.

The proposed categories should include at least the following two types:

1.Sustainable product category: This category would encompass products that invest in economic activities or assets that are already environmentally or socially sustainable. These products would need to meet a minimum sustainability threshold; and

Sustainable Finance (2)

2. *Transition product category*: This category would focus on investments in economic activities, assets, or portfolios that are not currently sustainable but are actively working towards achieving sustainability over time. The ESAs propose incorporating the concept of "transition investment" into the SFDR framework to facilitate the development of this category of financial products.

Furthermore, the ESAs argue that the introduction of clear categories would reduce the need for detailed and extensive sustainability disclosures.

For products that do not fall neatly into these categories, the ESAs suggest the following approach:

3a. Financial products with sustainability features: These products should disclose their sustainability features in regulatory documents. They should also face restrictions on using ESG- or sustainability-related terms in their names or marketing to prevent greenwashing.

3b. Products without sustainability features: These products should include a disclaimer (similar to the one outlined in Article 7 of the EU Taxonomy). They should be prohibited from using ESG- or sustainability-related terms in their names and marketing.

Lastly, the ESAs reaffirm that the requirement for disclosure on the consideration of sustainability risks should remain applicable to all financial products. This ensures transparency across the board regarding the sustainability risks associated with each product.

II. Complementary or alternative indicator system

The ESAs propose adopting an indicator akin to the PRIIPS KID risk indicator, designed to provide clear guidance for retail investors. This indicator, following consumer testing, would categorise products based on the sustainability of their investments and highlight those contributing to the transition towards sustainability.

Among the ESAs' suggestions are:

- A Climate Change Contribution System, akin to a nutri-score, which would provide a clear representation of a product's impact on climate change.
- A broader indicator that awards the highest grade to sustainable investments and those supporting transition efforts. The proposed system should rely on transparent and objective criteria, potentially linked to the EU Taxonomy, decarbonization goals, or metrics such as fossil fuel exposure and greenhouse gas (GHG) intensity. This framework aims to ensure comprehensive and transparent assessment of the sustainability of financial products.

Sustainable Finance (3)

Sustainability categories for financial products

"Sustainable" category
- Focus on sustainable investments
- Clear and objective minimum criteria
- EU Taxonomy basis for environmental sustainability

"Transition" category
- Focus on transition investments
- Mix of KPIs
- Consider initial ambitious but realistic share of investments that can grow over time

Non-categorised products
- Products that do not fulfil the conditions to fall under the proposed categories

Sustainability indicator(s) for financial products

Option 1: one indicator for products within and outside the sustainable and transition categories

Option 2: one indicator per sustainability category (non-categorised products not included)

Examples for grading

A B C D E

Sustainable category: A B C D E

Transition category: A B C D E

Sustainable Finance (4)

III. Definition of “sustainable investments” Art 2(17) of SFDR

The ESAs propose making key parameters specified in Article 2(17) of the SFDR prescriptive. This approach aims to achieve greater consistency in their application across the EU financial sector and enhance comparability of the proportion of sustainable investments across different financial products.

Additionally, the ESAs emphasise the need for clarity regarding the relationship between sustainable investments and investments in activities aligned with the EU Taxonomy. They recommend that the EU Commission provide this clarification within the current legal framework to eliminate ambiguity and ensure a clear understanding of how sustainable investments are aligned with Taxonomy-aligned activities.

IV. Potential expansion of products in the scope of SFDR

The ESAs are considering expanding the scope of the SFDR to include additional categories of financial products. Specifically, they are exploring the inclusion of structured products issued under Euro Medium Term Note (EMTN) programs. Additionally, they are examining the extension of SFDR requirements to encompass all insurance-based investment products, including multi-option products that are currently exempt from SFDR disclosures. This proposed expansion aims to achieve a more comprehensive application of sustainability regulations across a broader range of financial products.

V. Simplification of the documentation

Regarding pre-contractual disclosures, the ESAs propose a customised approach to documentation, emphasising that tailored content does not necessarily hinder standardisation. They recommend adapting documentation to suit the specific needs of recipients, particularly simplifying disclosures for retail products to enhance accessibility and user-friendliness. Additionally, they suggest implementing a layered approach to electronic access and processing of information, facilitating easier navigation and understanding for investors and improving the overall user experience.

VI. Improvement to the transparency of PAI at product level

The ESAs are considering introducing a distinction between "consideration" (which includes disclosure and mitigation) and "information" regarding Principal Adverse Impact (PAI). This differentiation aims to facilitate clearer identification of how PAIs are addressed at the product level.

Additionally, they propose clarifying whether the "statement" referred to in Article 7 of the SFDR should incorporate quantitative information, further enhancing transparency and accountability.

VII. Technical changes (Annex I) and Product type by sustainability objective (Annex II)

In addition to the core elements of the Opinion, the ESAs have identified several technical changes that they recommend the EU Commission address.

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These changes include clarifying the scope of disclosures under Article 4 of the SFDR to encompass unit-linked products within the PAI disclosures at the entity level, harmonising website disclosures, and establishing appropriate requirements for the naming and marketing of financial products under Article 13 of the SFDR.

Annex II of the Opinion provides specific examples to illustrate how different types of hypothetical financial products could be categorised under various sustainability objectives in hypothetical scenarios.

EASs publish separate reports on greenwashing in the financial sector

On 4 June 2024, the three European Supervisory Authorities (ESMA, EBA, and EIOPA) independently published Final Reports addressing greenwashing in the financial sector. These reports introduce recommendations aimed at enhancing the supervisory activities of National Competent Authorities (NCAs) and mitigating greenwashing risks.

The reports collectively adopt a coordinated approach to tackling greenwashing risks. They outline each ESA's current supervisory measures regarding greenwashing and reaffirm a shared understanding of greenwashing as a practice where sustainability-related statements, actions, or communications do not accurately reflect the true sustainability profile of an entity, financial product, or financial service.

Furthermore, each report offers insights into future enhancements of sustainability-related supervision, highlighting a progressive approach to strengthen regulatory oversight in this area.

The key findings of the ESMA's report are:

- ❑ NCAs prioritise overseeing sustainability claims, relying on thorough scrutiny and professional judgment, which complements their broader regulatory oversight.
- ❑ A risk-based approach directs supervisory efforts toward addressing significant risks effectively.
- ❑ Existing EU regulatory frameworks provide tools to combat greenwashing, treating it as misleading information and enforcing specific sustainability requirements.
- ❑ NCAs have identified a limited number of greenwashing incidents, attributed to factors like low complaint volumes and resource constraints.

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- ❑ Formal enforcement actions related to sustainability claims remain limited, with NCAs focusing on ongoing supervision and gradual compliance support.

- ❑ Capacity-building efforts include training programs and partnerships to enhance sustainability expertise among NCAs and ESMA.

- ❑ Access to high-quality, comparable data poses a challenge for effective supervision, prompting some NCAs to explore third-party data solutions.

- ❑ Adoption of Supervisory Technology (SupTech) tools is emerging to bolster efficiency, although implementation varies among NCAs.

- ❑ Annex I of ESMA's report outlines specific actions for market players to consider, providing explicit guidance. Key examples include:

  - Substantiating sustainability-related claims and ensuring clear, fair, and non-misleading communication of sustainability information.

  - Establishing monitoring processes and regularly reporting progress where applicable.

  - Adapting governance structures and processes to mitigate greenwashing risks, such as through committees and guidance.

  - Conducting due diligence on ESG data with the same rigor as financial information.

  - Addressing high-risk areas identified in the Progress Report.

  - Enhancing integration of ESG risks into existing risk management systems and controls.

The ESMA report should be read in conjunction with the final reports issued by the EBA and EIOPA respectively on this topic.

Glossary

AIF Alternative Investment Fund (EU)

AIFMD Directive 2011/61/EU on Alternative Investment Fund Managers

AIFMs Alternative Investment Fund Managers

AML/CFT Anti-Money Laundering/Countering the Financing of Terrorism

CSRD Corporate Sustainability Reporting Directive

CySEC Cyprus Securities and Exchange Commission

EBA European Banking Authority

ECB European Central Bank

EIOPA European Insurance & Occupational Pensions Authority

ESG environmental, social, and governance

EMIR European Market Infrastructure Regulation

ESAs European Supervisory Authorities (EBA, EIOPA and ESMA)

ESMA European Securities and Markets Authority

ESRB European Systemic Risk Board EU European Union

ICT Information and Communication Technology

MiCA Regulation of the European Parliament and of the Council on markets in crypto-assets

MiFID Markets in Financial Instruments Directive

NCA National Competent Authority

RTS Regulatory Technical Standards

SFDR Sustainable Finance Disclosure Directive

OECD Organisation for Economic Co-operation and Development

OJ Official Journal

UCITS Directive directive 2009/65/EC on Undertakings for Collective investments in Transferable Securities

UCITS Undertakings for Collective investments in Transferable Securities (EU)

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