

# The Challenge of Greenwashing: An International Regulatory Overview



# The Challenge of Greenwashing

## Green Claims: Real commitment or marketing strategy?

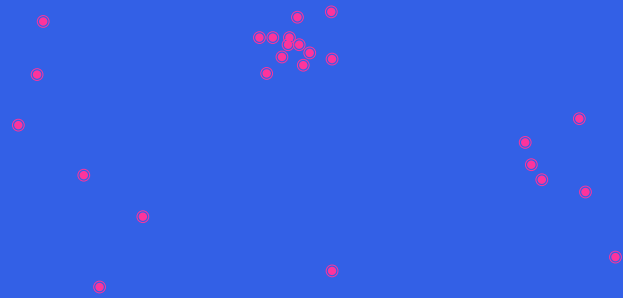
Consumers, investors, regulators and the public in general are increasingly demanding **transparency** and **sustainable practices** from companies. This trend is having significant impact on companies around the world, as they react adopting ESG commitments publicly. As a result, the global market expects changes in organizations' behaviors and messaging around sustainability.

"Sustainable", "carbon neutral" or "net-zero waste" are green claims that have been added to many products and services around the world. It also serves companies to effectively communicate some of their ESG commitments. However, **are their claims really substantiated?** In some cases these claims are not fully based on facts or substance.

This paper aims to show the risks that unsubstantiated or misleading information and claims on sustainability may trigger for corporates and governments. **Greenwashing accusations may have relevant reputational and legal risks** for companies. Moreover, while international standards are being developed, such as the IFRS's ISSBs or the EU's ESRS's, the landscape continues to be immature adding to the challenge for companies trying to avoid greenwashing. As preventing greenwashing practices is becoming a priority for regulators and supervisory authorities, an overview of the main regulations in 25 jurisdictions is given showcasing the general trends.

Let's kick off with some numbers:

# Greenwashing Statistics: A 2023 Global Perspective



## Growing Complexity of the Greenwashing Regulatory Landscape

This report provides a comprehensive mapping of greenwashing regulations across 25 jurisdictions. *Click on the map to directly access the specific rules and guidelines for each jurisdiction.*

**Participating jurisdictions:** Australia, Austria, Belgium, Brazil, Canada, Chile, Colombia, Finland, France, Germany, Indonesia, Ireland, Italy, Malaysia, Mexico, Netherlands, Norway, Romania, Singapore, South Africa, Spain, Taiwan, Thailand, United Kingdom, and United States.

## CEOs perspectives on ESG

69%

Have adapted the climate-related language and terminology used to meet changing stakeholders needs.

Source: "KPMG 2024 CEO Outlook" <https://assets.kpmg.com/content/dam/kpmg/sg/pdf/2024/09/kpmg-ceo-outlook-2024-executive-summary.pdf>

66%

Of CEOs admit they aren't prepared to withstand potential shareholder scrutiny.

## By Sectors

19%



Oil and Gas

15%



Banking and Financial Services

10%



Travel and Airlines

Percentage of ESG risk incidents linked to misleading communication on climate change, GHG emissions, and global pollution. Data covers from January to September 2023.

Source: [referenced by the European Banking Authority \(EBA\) in its Final Report on "Greenwashing Monitoring and Supervision." EBA's multilateral report delves into the topic. Mus ut aut volupta tampe reteropido. Et](#)

72%

of Consumers want to reduce their environmental impact

40%

of EU Green Claims found to be "completely unsubstantiated"

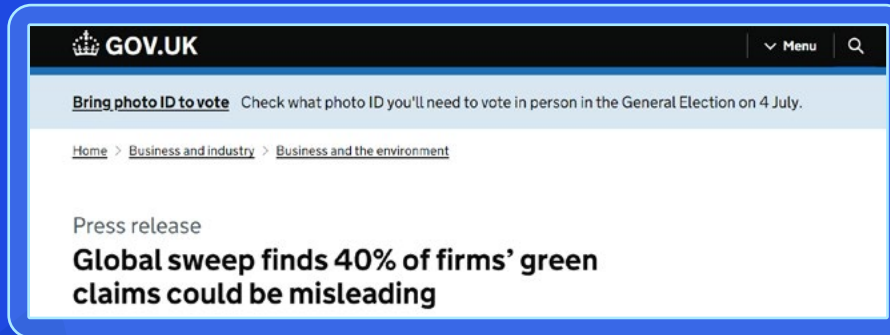
53%

of EU Green Claims found to be "vague, misleading or unfounded"

Source: [Statement of Reasons of the EU Proposal on Green Claims Directive.](#)

# Greenwashing on the News

Accusations of greenwashing are surging, and governmental scrutiny is intensifying. Stakeholders such as consumers, employees, and board members are now more vigilant than ever, considering greenwashing risks when evaluating companies. Navigating the numerous existing frameworks and international standards becomes crucial to any organization committed to genuine sustainability. Understanding these dynamics is crucial for any organization committed to genuine sustainability.



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Press release

### Global sweep finds 40% of firms' green claims could be misleading



Society & Equity | Finance & Banking | ESG Investors | Social Impact | Boards

## Banks behind 70% jump in greenwashing incidents in 2023 - report

Reuters

October 3, 2023 6:21 PM UTC · Updated 3 days ago



ukft

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### CMA investigates fashion companies over 'green' claims

29/07/2022



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## 'Greenwashing' warnings accelerate drive for business sustainability standards



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Press room / [MEPs adopt new law banning greenwashing and misleading product information](#)

## MEPs adopt new law banning greenwashing and misleading product information

Press Releases | [PLENARY SESSION](#) | [IMCO](#) | 17-01-2024 - 12:33



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## EU Moves Closer To Regulating Greenwashing By Businesses In New Green Claims Directive

# What are the Five Key Questions to Ask Yourself?





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# 01.

## KPMG International Overview



# KPMG international Overview

**Greenwashing is the term commonly used for a marketing strategy used by some companies to appear more environmentally friendly than they actually are. This deceptive marketing practice involves using false or misleading communication to position their products, services or business, capitalising on the growing environmental consciousness among consumers and investors.**

A notable surge in public awareness of the need to transition to a more sustainable way of life has fuelled the adoption of 'green' practices – and their significance for purchasing decisions. **A 2023 study carried out by [KPMG in the UK](#) found that 50% of consumers are willing to pay more for sustainable products.** That trend may increase as younger generations, who are likely to place even greater value on climate concerns, grow into their purchasing power.

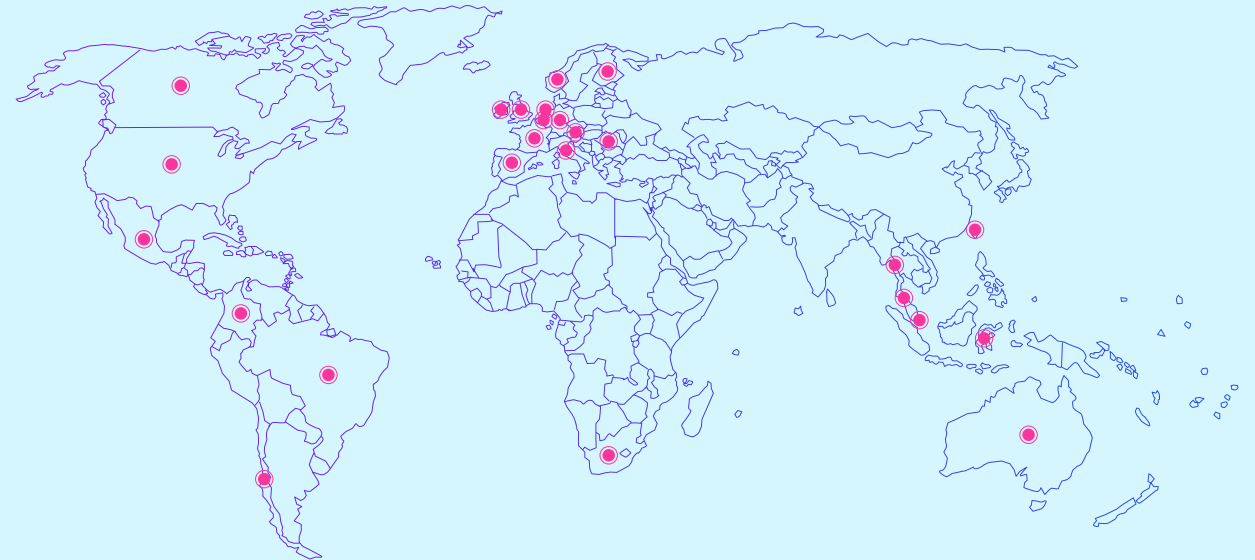
The demand for environmentally-friendly products has prompted companies and investors alike to recognise the long-term advantages and growth opportunities associated with sustainability and to utilise it as a market differentiator. **Green claims and information on sustainability must be clear, not misleading and substantiated in order to avoid greenwashing accusations.**

## KPMG Global greenwashing survey

This report gathers the findings derived from the analysis of information regarding greenwashing accusations and regulations across 25 jurisdictions. Legal specialists from KPMG firms in these jurisdictions have contributed to this comparative guide which illustrates the ways participating jurisdictions tackle greenwashing, from specific regulatory measures to general regulations, such as Consumer Protection laws and Anticompetitive rules. This report considers representative greenwashing cases from each jurisdiction to identify greenwashing trends from a regulatory enforcement and private litigation perspective.

KPMG professionals have also considered the specific impact on the financial services sector, where disclosure of corporate climate transition plans and transparency on the sustainability of financial instruments are fundamental prerequisites for effective capital allocation and climate risk management.

## Juristictions covered in greenwashing survey



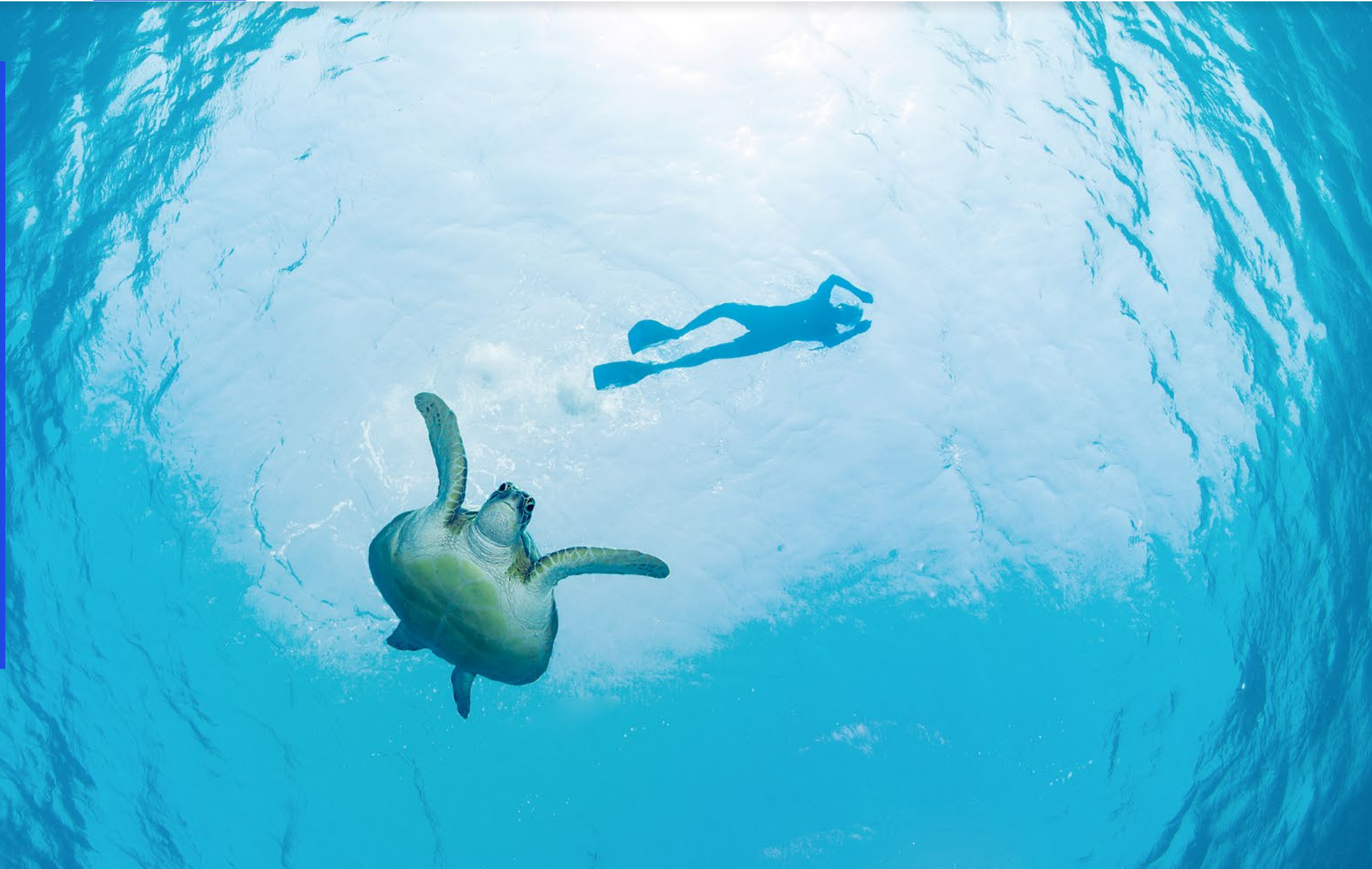
Australia, Austria, Belgium, Brazil, Canada, Chile, Colombia, Finland, France, Germany, Indonesia, Ireland, Italy, Malaysia, Mexico, Netherlands, Norway, Romania, Singapore, South Africa, Spain, Taiwan, Thailand, United Kingdom and United States

**A 2023 study carried out by [KPMG in the UK](#) found that 50% of consumers are willing to pay more for sustainable products**



# 02.

## Origin and definition of greenwashing





## How did greenwashing originate?

'Greenwashing' was coined by environmentalist Jay Westerveld in 1986 to expose the practices of some hotels that urged guests to reuse towels while wasting resources elsewhere. The term was more broadly adopted as a response to marketing strategies that sought to capitalise on growing environmental awareness without a genuine commitment to sustainability.

# What is meant by greenwashing?

**Greenwashing can be understood as deceptive marketing practices used by companies to create a false impression of environmental responsibility. This strategy involves providing misleading or false information about the environmental impact of a company's products, services or operations to appear more eco-friendly than they actually are.**

Common features of greenwashing include:

- 1** Information about products that is not expressly wrong, but is misleading, such as by overstating certain characteristics.
- 2** Communications that omit relevant information, making them misleading to consumers, investors, or other market participants.
- 3** Statements that are too generic and vague, such that they can't be substantiated.
- 4** The presentation of company objectives that disguises the lack of ambition or alignment to broader goals.

## Reframe the debate

**The criteria for what qualifies as green or sustainable can be subject to interpretation** in the current regulatory landscape where in the majority of the cases there is no specific regulation on greenwashing, but general regulations, such as Consumer Protection laws and Anticompetition rules.

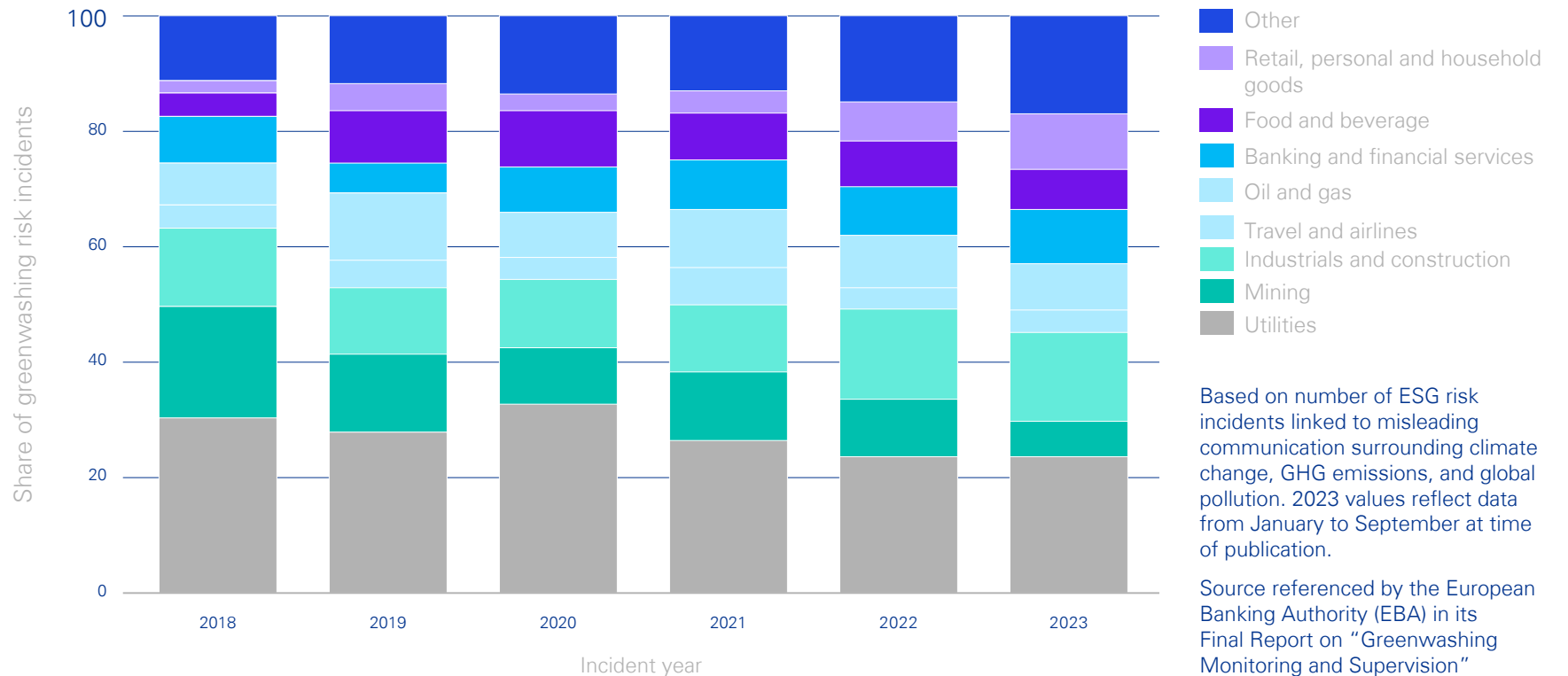
**Without clear guidelines, companies may believe they are acting within acceptable boundaries when making sustainability claims.** For this reason, businesses need to reframe the debate to **include the intentionality factor in greenwashing**. This inclusion is crucial for providing clarity and ensuring accountability, helping to differentiate between genuine sustainability efforts and deceptive practices. This shows the importance that robust independent assurance may have.

# Greenwashing by sectors

Over the years there have been a number of notable cases of greenwashing in communication and advertising campaigns by large multinationals in a **range of sectors – from those associated with fossil fuels, through to consumer focused businesses in the fashion, cosmetics, mobile technology, decoration, or fast food sectors, as well as financial services businesses.**

Of these, the **financial services sector plays a particularly important role in financing, and insuring, the transition to a sustainable economy.** Achieving a global net zero economy will come at a cost. According to a report titled **“The Future of European Competitiveness”**, published in September 2024 by Mario Draghi, the former President of the European Central Bank, **Europe must invest €800 billion by 2030 in order to achieve the 2030 climate goals** and ensure the competitiveness of its industries. Mobilising private investment is essential to achieve this ambitious goal. Simultaneously, financial institutions should be seeking to ensure that their investments and influence align with pathways that scale up climate mitigation across all sectors and regions. For these resources to be properly allocated, information must be reliable, clear and not misleading – making the eradication of greenwashing a necessity.

Shifting breakdown of sectors linked to climate greenwashing



Based on number of ESG risk incidents linked to misleading communication surrounding climate change, GHG emissions, and global pollution. 2023 values reflect data from January to September at time of publication.

Source referenced by the European Banking Authority (EBA) in its Final Report on “Greenwashing Monitoring and Supervision”

<https://www.reprisk.com/news-research/reports/on-the-rise-navigating-the-wave-of-greenwashing-and-social-washing>

# What types of environmental claims can give rise to greenwashing risk?

Some of the common pitfalls that may lead to greenwashing risks:



## Unsubstantiated claims.

These can manifest as overstated or unverified numbers, which may be presented without proper evidence. Some companies may use outdated standards to measure and present their performance, which can create a false impression. Some organizations frequently face criticism for claiming ambitious future goals without making tangible improvements, highlighting a disconnect between intention and action.



## Dubious labels and terminology.

Some companies may use vague terms without proper explanation, leaving consumers unclear about the actual environmental benefits, or use inspirational adjectives in names and slogans while hiding the informational part in the small print. Some businesses have also promoted a line of products as 'ecofriendly', when they were the same as conventional ones, without providing any evidence to support this differentiation.



## Focusing on a single attribute.

This occurs when companies provide incomplete information, emphasising one positive attribute while ignoring the negative environmental impacts. Such practices prevent consumers from understanding the full environmental impact of a product or service



## Misleading imagery.

Some companies may use imagery that suggests environmental benefits without supporting evidence.



## Advertising campaigns that exaggerate sustainable efforts.

Some companies may launch advertising campaigns that overstate their commitment to sustainability, highlighting minor eco-friendly initiatives as major achievements, or claim significant environmental benefits from small insignificant actions.

# How does greenwashing materialise?

Greenwashing practices can arise across the spectrum of corporate activity



## What you sell:

The product, service or business operation level

**Information must be fair, clear, and not misleading: greenwashing can have a great impact on consumer trust and corporate reliability.** The importance of this is exemplified in the recitals to the European Commission’s Proposal for the **Green Claims Directive**: *“If environmental claims are not reliable, comparable and verifiable, consumers and other market actors cannot fully leverage their purchasing decisions to reward better environmental performance. Similarly, the lack of reliable, comparable and verifiable information hinders incentives for optimizing environmental performance, which would typically go hand in hand with efficiency gains and cost savings for companies along the supply chain as well.”*



## What you say:

The entity level

**Corporate climate transition plans are critical for achieving a global net-zero economy.** They are also essential for financial institutions to effectively allocate their capital to genuinely sustainable companies. This is reflected by the **European Commission’s approach in the Corporate Sustainability Reporting Directive (CSRD)**. The European Sustainability Reporting Standards (ESRS), which set the requirements for future CSRD reporting, detail (amongst many other things) the necessary components for both corporate climate and biodiversity transition plans. Greater requirements to publicise plans will increase the potential exposure to greenwashing at this level.



## Whom you serve:

The counterparty level

It is accepted that a company’s climate impact can not be looked at in isolation. However, a significant **challenge is sourcing accurate data to assess the sustainability credentials of counterparties.** To address this, the **Corporate Sustainability Due Diligence Directive (CSDDD)** focuses on ensuring responsible business conduct through a company’s chain of activities. Effectively identifying and mitigating these risks is essential for maintaining sustainability throughout a company’s supply chain – and for avoiding inadvertent greenwashing.

# What are the consequences?

The consequences of greenwashing can be significant for individual, corporates and society as a whole.

## Consequences for consumers

For consumers who fall victim to greenwashing, this can lead to **purchasing decisions made on false information, affecting not only their satisfaction but also undermining trust** in companies and sustainability messaging in general. Feeling deceived and disillusioned, consumers may become more sceptical and less inclined to respond to green claims in marketing. This may have the unintended consequence of reducing the incentive on companies to adopt sustainable practices.

## Consequences for corporates

For corporates that do engage in greenwashing, they will face the risk of reputational damage, loss of consumer confidence, the imposition of financial penalties or behavioural remedies, as well as potential private litigation. There may, however, be consequences even for those who do ensure they act in a transparent and responsible manner. Due to the complexity in the regulatory frameworks and the lack of clear and consistent standards, companies can be accused of greenwashing even when there has been no intent to deceive. As good intentions are not always rewarded, some companies will stay silent out of fear of being called out. This emerging tendency, known as **greenhushing**, can be as damaging as greenwashing, as again it undermines the incentives to drive sustainability and transparency.

## Consequences for society

Greenwashing may also undermine the effectiveness of regulatory policies as market participants may circumvent regulations by hiding their climate footprint. This can slow down the transformation of the economy, resulting in increased risks and necessitating more drastic interventions.



# 03.

What factors have contributed to the development of greenwashing practices?







# What factors have contributed to the development of greenwashing practices?

## Lack of enforceability of international standards

**International standards on corporate non-financial information are being developed at pace and will help bring more transparency, however, the fact that multiple jurisdiction-specific rules may apply creates complexity.** Accountability and incentives play pivotal roles in driving positive change. However, the inconsistency and complexity of frameworks and standards, including the Global Reporting Initiative (GRI) standards, the ESRS, the EU Taxonomy for Sustainable Activities, and the International Sustainability Reporting Standards (ISSB) of the IFRS Foundation, may further exacerbate the challenge.

## Competitive pressure and market opportunities

**As sustainability becomes a strategic priority to gain a competitive edge, some companies may be incentivised to engage in borderline deceptive practices** to align their performance and positioning with these new market expectations. This enables them to project an environmentally friendly image, outperform competitors, and capitalise on the emerging trend.

**Market opportunities associated with greenwashing** tactics cannot be overlooked; growing consumer demand for environmentally friendly products and services presents companies with opportunities to exploit these preferences. Financial incentives further drive some companies to engage in greenwashing practices, offering short-term benefits but posing significant long-term risks to both businesses and society.

# 04.

What are the main risks associated with greenwashing?



# What are the main risks associated with greenwashing?

Companies found to be engaging in greenwashing practices are exposed to a range of potentially significant risks, such as regulatory enforcement and penalties, impacts on corporate reputation and stakeholder trust, and litigation.

**1. Damage to corporate reputation**

**2. Legal and regulatory risks**

**3. Litigation**

## What are the main risks associated with greenwashing?



### Damage to corporate reputation

Companies that attempt to improve their image through greenwashing campaigns will be subject to increasing scrutiny from consumers, employees, investors and suppliers looking to test the robustness of the underlying evidence. Those that are challenged but are unable to substantiate their claims may face long-term reputational damage, affecting customer and business partner trust and loyalty and negatively impacting sales.

Quantifying the possibility and significance of reputational risks caused by greenwashing is a challenge that is expected to escalate over time. Social media has enabled environmental activists to hold a magnifying glass to these scandals to bring awareness to a wider audience. Consumers are likely to change their purchasing habits with scepticism about certain brands escalating into broader movements to boycott products or companies perceived to be unsustainable

or untrustworthy. Companies involved in greenwashing often experience a significant decline in customer satisfaction, which can lead to substantial negative effects on both net profits and return on investment (ROI).

Unsurprisingly, therefore, the reputational risks are not just consumer-facing. Many investors are looking to protect their investments, whilst facing their own sustainability reporting obligations and external pressures to make a positive contribution to climate challenges, are moving towards supporting green alternatives with increasing enthusiasm. Similarly, employees have started to prioritise transparency regarding their company's environmental, social and governance (ESG) initiatives.

Transparency and authenticity in sustainability efforts are essential to avoid these consequences.

**Employees and prospective employees increasingly value companies' commitment to various aspects of sustainability, making it evident that this is becoming a key factor in employee engagement and attraction.**

# What are the main risks associated with greenwashing?

## Legal and regulatory risks

**Companies that engage in misleading environmental marketing practices expose themselves to the risk of regulatory scrutiny and investigations, administrative enforcement action and financial penalties.**

Whilst enforcement appetites inevitably vary across jurisdictions, our review points to an increase in the powers available to regulators and their subsequent willingness to exercise them. This is demonstrated in the following cases:

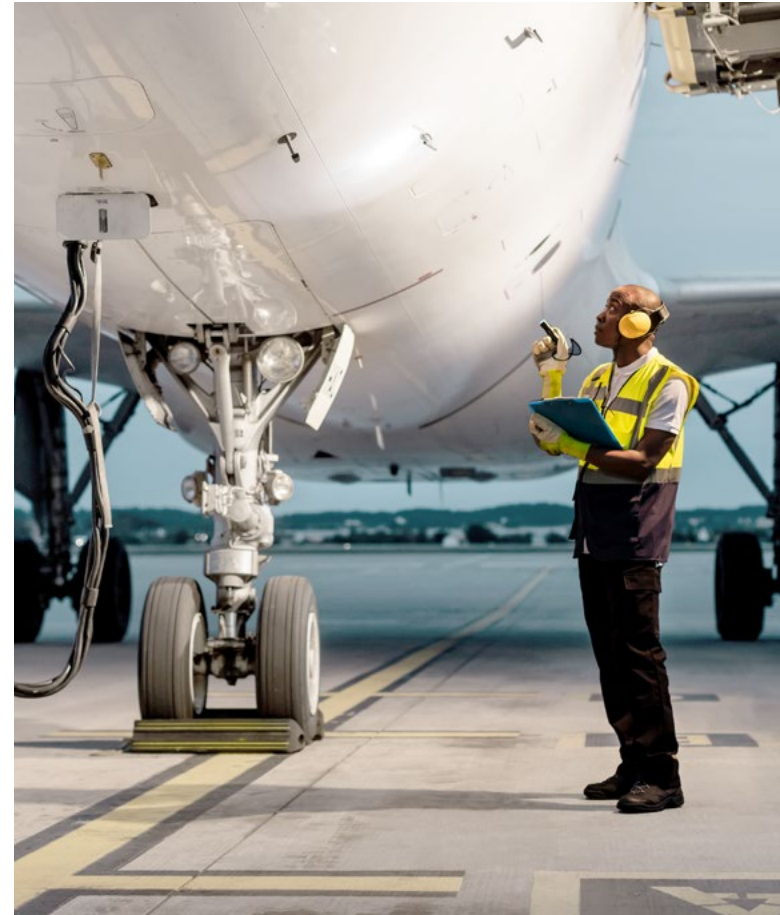
### Case 1

In April 2024, the European Commission launched a series of actions, alongside national consumer protection authorities, against 20 airlines for suspected misleading greenwashing practices.

### Case 2

The UK's Competition and Markets Authority (CMA) has also been leading the charge with respect to applying existing consumer powers to bring about change in the fashion industry, utilising binding undertakings from three major players as a blueprint for the standards the sector as a whole should adopt when labelling and marketing products.

Similar enthusiasm for taking strong action has been seen amongst financial services regulators, such as European Securities Markets Authority (ESMA), which is actively considering strategies to combat greenwashing more effectively and strengthen their enforcement capabilities.



# What are the main risks associated with greenwashing?

## Litigation

**Our analysis reveals a rising trend in alleged greenwashing cases from 2022 to 2023** (21.1% global increase reported in the RepRisk database, referenced by the European Banking Authority (EBA) in its Final Report on "[Greenwashing Monitoring and Supervision](#)"). **However, the latest database update for 2024 suggests a possible shift, as the number of reported greenwashing cases has declined.** This unexpected trend change warrants close monitoring in the coming months to understand the underlying factors contributing to the decrease. This decline may reflect improvements in corporate practices and increased regulatory oversight over the past year. Alternatively, it could also suggest a rise in greenhushing, where companies downplay or omit environmental claims to avoid public and regulatory scrutiny.

We have observed that claimants often pursue litigation not solely to win but also to achieve broader strategic objectives, such as gaining publicity and influencing government policy. As climate change action becomes an integral part of business operations, authorities anticipate that campaigners will file more legal claims. Moreover, litigation against governments typically falls into two categories: seeking reparations for past climate impacts and holding governments accountable for future climate goals.

## Who is driving the rise in greenwashing accusations?

### 1. NGOs and activist organisations against both companies and governments.

There have been significant cases against governments in 2023, challenging the ambition or implementation of their climate policies.

A recent **incident involving** a world leading climate certification organisation, has sparked internal controversy. Employees have criticized the company's plan to enable certified companies to meet their carbon targets using carbon offsets. Employees were concerned that companies may exploit carbon offsets, thereby avoiding essential reductions in greenhouse gas emissions.

### 2. Corporates suing competitors for unfair competition derived from their greenwashing practices.

Cases have arisen where companies are filing lawsuits against their competitors, alleging greenwashing due to deceptive marketing practices and corporate communications.

### 3. Stakeholders are growing more concerned and are now more frequently suing companies.

Cases have arisen where stakeholders (investors, consumers, employees, etc.) demand more transparency and accountability in corporate environmental claims. Businesses now face heightened expectations to provide clear, accurate disclosures and demonstrate real progress.



# 05.

What compliance mechanisms can mitigate the risk of greenwashing?



# What compliance mechanisms can mitigate the risk of greenwashing?

Multinational corporations face an escalating challenge in navigating the regulatory landscape across diverse jurisdictions and industries. Alongside this, the shifting nature of criteria employed by regulatory authorities underscores the necessity of anticipating ESG trends and possible regulatory change. Anticipating these shifts is key for companies to achieve a sustainable transformation; failing to anticipate them can result in substantial repercussions for a company's reputation and market position. Proactively analysing ESG opportunities, challenges, and risks empowers companies to distinguish themselves and effectively manage the journey to achieve sustainable transformation.

## 01 Regulatory scanning

Taking into account the increasing complexity of regulation, companies must identify new developments and understand the potential impacts for their business and activities. Companies must stay ahead of regulatory changes and adjust their practices accordingly. By continuously monitoring the regulatory landscape, organisations can anticipate and respond to new requirements, reducing the likelihood of non-compliance and the associated risks of greenwashing.

## 02 Mapping green claims

Identify consumer green claims touchpoints:

- Marketing & product information, including on pack & online
- Third-party labels & certifications including supplier claims
- ESG / Sustainability Report including Material Impact Assessment

## 03 Risk screening and management

- Identify potential sources of risk through a Greenwashing Risk Screening
- Conduct gap analysis in processes & policies related to green claims
- Review of current green claims assess against the greenwashing pitfalls and verification / substantiation requirements
- Review of third-party contracts for compliance with existing guidelines and availability of data to substantiate claims
- Ensuring that ESG disclosures are clear, not misleading and substantiated, helping organizations maintain transparency and accountability.

## 04 Governance, compliance and controls

- Adjustment of processes in place to create, approve & verify claims
- Update governance, processes, and policies to include risk management procedures and controls
- ESG disclosures. Embracing an effective audit and assurance regime around ESG disclosures.
- Substantiation & verification process in place for all claims, in line with regulation & best practice. Robust independent assurance may become a relevant compliance and prevention tool. Anticipate evolving perceptions & regulations.

## 05 ESG Litigation

The rising number of litigious claims, along with the rapid development and expansion of ESG disclosure obligations and practices, necessitates that companies be prepared to manage the risks associated with ESG-related litigation.

## 06 Training

- Upskill teams and agency partners on greenwashing risks in the brand/product's context
- It is crucial to increase awareness among an organisation's board members and employees about the fundamental ESG criteria and risks associated with greenwashing.
- Upskilling these key players ensures that they are well-informed about sustainable practices and regulatory requirements, thereby fostering a culture of compliance and transparency.



# 06.

Is there a standard legal definition of greenwashing?

# How are different jurisdictions approaching or preventing greenwashing?

There is no homogeneous legal definition of greenwashing: indeed, most of the jurisdictions surveyed lack a specific legal definition or regulatory framework to address greenwashing. Instead, they rely on general consumer protection regulations or anticompetitive rules, which typically require information to be true, clear, and substantiated. These jurisdictional disparities have led to inevitable differences in core concepts, such as the criteria for substantiating a product as 'green'. The lack of common international standards, combined with a complex framework of laws, can make it challenging for companies to adopt coherent compliance approaches to sustainability communications, especially for multinational companies operating across a range of jurisdictions.

## Jurisdictions are at different stages of their regulatory journeys



### European Union

Sustainability has become a central pillar of the European Union's agenda, leading to the implementation of several key initiatives, such as the **proposed EU Green Claims Directive** that will define and ban greenwashing practices and introduce an external verification system for companies that want to make environmental-related claims. This will operate alongside the **Ecodesign Regulation** adopted in May 2024 which establishes a framework

for the European Commission to set ecodesign requirements for sustainable products. These rules are complemented by the **Directive on Empowering Consumers for the Green Transition**, which aims to provide better protection against unfair practices, improve information for consumers, and introduces a ban on generic environmental claims and on claims that refer to offsetting carbon dioxide (CO<sub>2</sub>) emissions such as "climate neutral" or "climate positive".



### United Kingdom

Similarly, the United Kingdom is addressing the issue of greenwashing through targeted sectoral rules and enhancements to the enforcement powers of the Competition and Markets Authority (CMA) to address noncompliance with consumer law through the use of administrative fines. This has been reflected in the **CMA's scrutiny of misleading green claims in the fast-moving consumer goods (FMCG) sector**.



### United States

In the United States, the Federal Trade Commission (FTC) is actively working on enforcing the **Guides for the Use of Environmental Claims**, commonly known as the Green Guides, to combat deceptive green marketing practices.



### Canada

In June 2024, parliament amended the deceptive marketing practices regime in the **Canadian Competition Act** to introduce new anti-greenwashing provisions requiring the substantiation of environmental claims.



# A special focus on the financial sector

**This report places particular emphasis on the financial sector, as regulatory authorities are actively developing specific regulations and guidelines to address the issue comprehensively.**

In 2023, the Banking and Financial Services sectors experienced a 70% rise in climate-related greenwashing risk incidents\*.

Regulatory divergence is particularly pronounced in the approach to requirements to embed sustainability into the investment process and the associated disclosure expectations. In practice, this means that it will be challenging for any single fund product to comply with rules across all different regions and jurisdictions.

Although the regulators share the same goal of mitigating greenwashing by driving transparency, there are fundamental differences in their approaches and scope of their rules. While the **ESG disclosures proposed by the US Securities and Exchange Commission (SEC) are rules-based, the EU's approach is more principles-based** (and subject to frequent revisions). Adding to the complexity, some US states have proposed their own anti-ESG legislation. The **UK's Sustainability Disclosure Requirements (SDR) do not align closely with the details of either the US or EU approach, especially with respect to the product labelling requirements.**

Expectations regarding **firms' fiduciary duties** are also evolving. The US Department of Labor published a final regulation to clarify that fiduciaries may consider climate change and other ESG factors when they make investment decisions and when they exercise shareholder rights. The UK government committed to providing further information and clarity for pension trustees on their fiduciary duty in the context of the net zero transition, via review of its stewardship guidance.

**70%** Rise in climate-related greenwashing risk incidents experienced by Banking and Financial Services sectors in 2023

\*Source referenced by the European Banking Authority (EBA) in its Final Report on "Greenwashing Monitoring and Supervision."  
<https://www.reprisk.com/research-insights/reports/on-the-rise-navigating-the-wave-of-greenwashing-and-social-washing>

## A special focus on the financial sector

### Extra-territorial impact of the EU Sustainable Finance Disclosure Regulation (SFDR)

In addition, the **extra-territorial impact of the EU SFDR** should be considered, given that **fund managers marketing into the EU are in scope**. Some investors outside the EU are stating a preference for products that meet the descriptions in SFDR Articles 8 and 9, while regulators in jurisdictions such as Singapore have stated that SFDR compliance would achieve only partial compliance with local requirements.

### EU Supervisory Scrutiny

In June 6, 2024, the **EU European Supervisory Authorities (ESAs) published their Final Reports on Greenwashing in the financial sector**. This report establishes a common understanding of greenwashing, which applies across banking, insurance, pensions, and financial markets. Each ESA assesses the current supervisory actions taken against greenwashing risks within their jurisdiction. They highlight that national competent authorities (NCAs) are actively addressing sustainability-related claims. Furthermore, the ESAs outline plans for future enhancements in sustainability supervision over the coming years. They set out their common understanding of greenwashing: *“a practice where sustainability-related statements, declarations, actions, or communications do not clearly and fairly reflect the underlying sustainability profile of an entity, a financial product, or financial services.*

The European Securities and Markets Authority (ESMA) has initiated Common Supervisory Actions (CSAs) to ensure consistent supervision of sustainability-related disclosures and risks integration across the EU. These actions aim to combat greenwashing and scrutinize sustainability claims more effectively.

In June 2023 the **Authority for the Financial Markets (AFM) in the Netherlands** consulted on guidelines for financial institutions and pension providers making sustainability claims. The proposed guidance included three principles that claims should be:

- accurate, representative, and up to date;
- specific and substantiated; and
- understandable, appropriate, and easy to find.

The position in **Germany** is unique, in that the periodic reports for Article 8 and 9 funds are included in funds' annual statements and are therefore subject to audit requirements. This brings the benefit of additional assurance over the included disclosures but adds to operational costs and concerns about data gaps.

### Non-EU Approaches

Other regulators are relying on supervision based on existing rules and recently issued guidelines. For example, in June 2022 **Australian Securities & Investments Commission (ASIC)** published an information sheet on how to avoid greenwashing summarising its key enforcement activities, and was followed by some firms adjusting down their claims. In March 2022, the Canadian Securities Authorities (CSA) issued Staff Notice 51-364 Continuous Disclosure Review Program Activities for fiscal years ended March 31, 2022, and March 31, 2021, concerning ESG or sustainability-related disclosures to guide issuers in improving their continuous disclosure. The guidance states that issues should avoid misleading, unsubstantiated, or otherwise incomplete claims about ESG and sustainability-related aspects of their business that convey false impressions.. In January 2024, **UK's Financial Conduct Authority (FCA) has adopted a general “anti-greenwashing rule” for all UK regulated firms**, requiring them to ensure that the naming and marketing of financial products and services is clear, fair, not misleading, and consistent with the sustainability profile of the product or service.



# 07.














## Greenwashing rules by jurisdiction



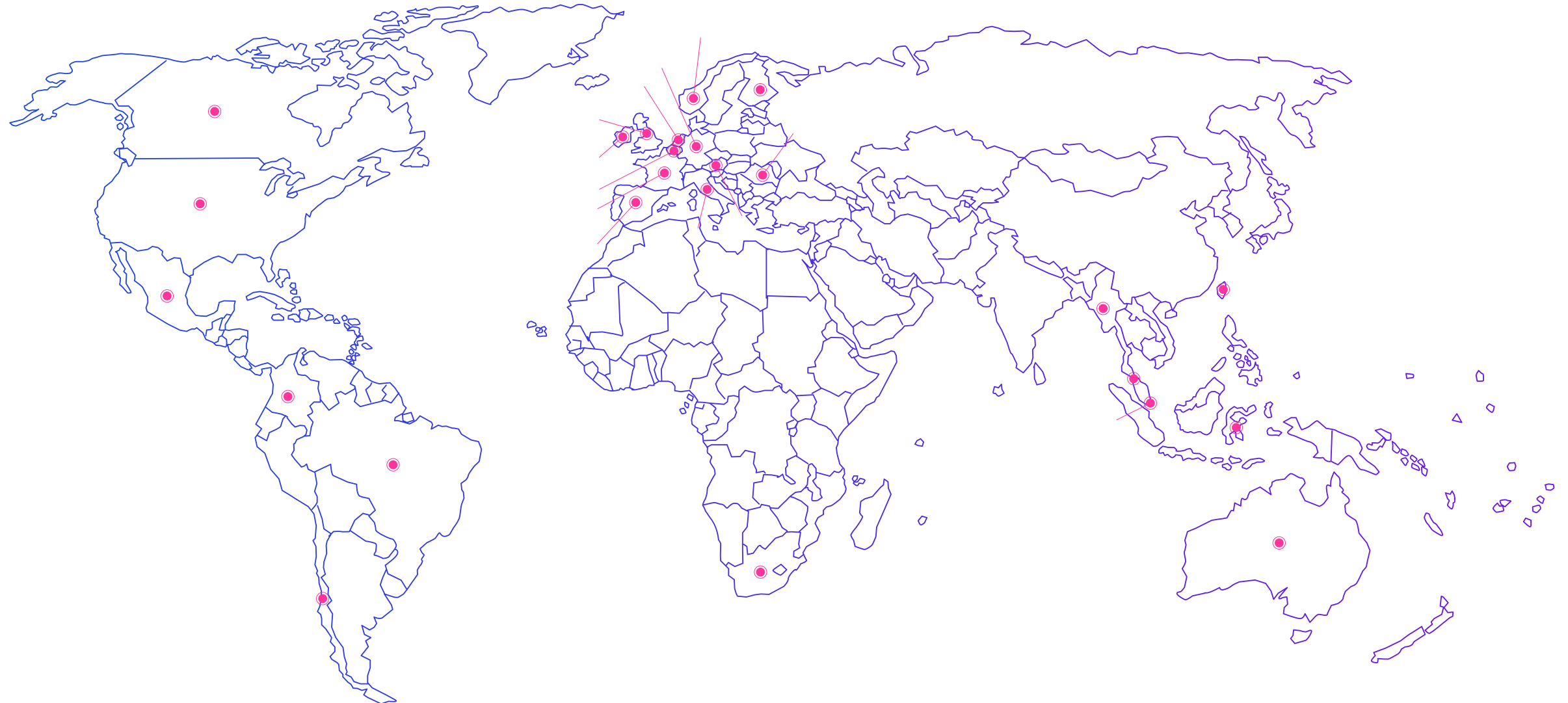
# International Legal Overview

Footnote 1. EU regulation applies (Proposed EU Green Claims Directive on Empowering consumers for the Green Transition)  
Footnote 2. EU regulation applies (Sustainable Finance Disclosure Regulation (SFDR) and related regulations)

Jurisdictions	What regulations or soft laws address the transparency of green claims?						Are greenwashing practices explicitly defined, or are regulatory authorities or industry supervisors addressing this issue?	Are there greenwashing investigations or litigation cases? In what industries have there been more greenwashing cases?
	General Regulations / soft laws			Specific Regulation / soft laws				
	Consumer Protection /Company or contractual regulation	Marketing	Competition	Green Claims Specific	Financial Sector			
 <b>European Union</b>	✓	✓	✓	✓		✓	The EU Green Claims Directive has established a greenwashing definition. In June 6, 2024, the European Supervisory Authorities (ESAs) published a Final Report on Greenwashing in the financial sector.	✓ Cases involving multiple EU Member States and multiple sectors.
 <b>Austria</b>	✓	✓	✓	✓ (Local Austrian Ecolabel) (1)	✗ (Footnote 2)		The Austrian Federal Competition Authority (Bundswettbewerbsbehörde) is working on adapting consumer protection laws to address greenwashing practices.	✓ Energy and food sectors.
 <b>Belgium</b>	✓	✓	✓	✓ (Local Guidelines on Environmental Claims, and Environmental Advertising Guidelines) (Footnote 1)	✗ (Footnote 2)		The Guidelines on Environmental Claims have embedded greenwashing in the consumer protection legislation (under the Code of Economic Law).	✓ Automotive, real estate, energy and sports sector.
 <b>France</b>	✓	✓	✓	✓ (Local anti-greenwashing guide and environmental claims guides) (Footnote 1)	✗ (Footnote 2)		ADEME (French Environment and Energy Management Agency) has published anti-greenwashing guide.	✓ Consumer goods sector.
 <b>Finland</b>	✓	✓	✓	✗ (Footnote1)	✓ (Act on the Financial Supervisory Authority) (Footnote 2)		There are ongoing discussions regarding the implementation of EU Directives: 1) EU Green Claims Directive, and 2) Directive on Empowering Consumers for the Green Transition.	✓ Food, fashion and aviation sectors.
 <b>Germany</b>	✓	✓	✓	✓ (own Due Diligence in Supply Chains Act, the Lieferkettensorgfaltspflichtengesetz (LkSG)) (Footnote 1)	✗ (Footnote 2)		Higher standards to combat greenwashing are being achieved through the development of case law. The financial supervisory authority ("BaFin") is sensitive on greenwashing risks and working on combating this issue.	✓ Aviation, automotive, energy, foos and consumer products, and financial services sectors.
 <b>Ireland</b>	✓	✓	✓	✗ (Footnote1)	✗ (Footnote 2)		The Advertising Standards Authority for Ireland ("ASAI") and the Competition and Consumer Protection Commission ("CCPC") regulate false or misleading claims. Discussions are taking place to transpose EU Directives on the topic to national law.	✓ Automotive sector.
 <b>Italy</b>	✓	✓	✓	✗ (Footnote1)	✗ (Footnote 2)		There are ongoing discussions regarding the implementation of EU Directives: 1) EU Green Claims Directive, and 2) Directive on Empowering Consumers for the Green Transition.	✓ Food, fasion, financial services, and oil and gas sectors.
 <b>Netherlands</b>	✓	✓	✓	✗ (Local Guidelines on Sustainability Claims and Dutch Sustainability Claims Code) (Footnote 1)	✓ (Local Guidelines on Sustainability Claims in Financial Markets) (Footnote 2)		The competent authorities that are enforcing the stated regulations (ACM, RCC, AFM) are on the watch for greenwashing practices.	✓ Food, fashion, airlines, energy and financial services sectors.
 <b>Romania</b>	✓	✓	✓	✗ (Footnote1)	✗ (Footnote 2)		The Romanian Senate's Decision no. 49/2023, regarding a proposed EU regulation on carbon dioxide removals, is the first official document to mention greenwashing.	✓ Food sector.
 <b>Spain</b>	✓	✓	✓	✓ (Self-regulation code on commercial communications including environmental claims) (Footnote 1)	✗ (Footnote 2)		Spanish financial regulators, including the CNMV, are focusing on greenwashing and have outlined strategies to combat it in their 2023-2024 Activity Plan.	✓ Energy, fashion, financial services, oil and gas sectors.
 <b>Norway</b>	✓	✓	✓	✗	✓ (Act on Disclosure of Sustainable Information in Financial Sector)		The Consumer Authority has a Nordic collaboration with Finland, Sweden, Denmark and Iceland to share information, coordinate enforcement, and raise awareness to combat greenwashing effectively.	✓ Energy, aviation and automotive sectors.
 <b>United Kingdom</b>	✓	✓	✓	✓ (CMA Green Claims Code)	✓ (Sustainability Disclosure Requirements and the Financial Services and Markets Act)		Whilst consumer protection enforcement powers have been strengthened by the Digital Markets, Competition and Consumer Act and the clear steer of the Green Claims Code, greenwashing is not defined in statute. The Financial Conduct Authority has introduced a targeted anti-greenwashing rule for regulated financials services firms.	✓ Fashion, food, financial services, aviation, automotive, oil and gas sectors.

Jurisdictions	What regulations or soft laws address the transparency of green claims?						Are greenwashing practices explicitly defined, or are regulatory authorities or industry supervisors addressing this issue?	Are there greenwashing investigations or litigation cases? In what industries have there been more greenwashing cases?	
	General Regulations / soft laws			Specific Regulation / soft laws					
	Consumer Protection /Company or contractual regulation	Marketing	Competition	Green Claims Specific	Financial Sector				
 South Africa	✓	✓	✓	✗	✓	(Johannesburg Stock Exchange Sustainability and Disclosure Guidance note)	There are no developments or discussions on the regulation of greenwashing practices.	✗	
 Australia	✓	✓	✓	✗	✓	(Corporations Act)	The Australian Government plans to enhance greenwashing laws through a new Sustainable Finance Strategy, aiming to improve climate-related disclosures and reduce greenwashing. Australia is aligning its greenwashing regulations with international standards by adopting the ISSB S2 disclosure standard and actively participating in global efforts.	✓ Oil and gas, automotive, energy, financial services sectors.	
 Malaysia	✓	✓	✓	✗			Recent ASEAN developments highlight a focus on sustainability, with Bursa Malaysia, Indonesia Stock Exchange (IDX), Stock Exchange of Thailand (SET) and Singapore Exchange (SGX Group) collaborating on the ASEAN-Interconnected Sustainability Ecosystem (ASEAN-ISE) to implement common ESG metrics, enhancing transparency and indirectly addressing greenwashing.	✗	
 Singapore	✓	✓	✓	✓	✓	(Singapore Green Label Certification)	The Competition and Consumer Commission of Singapore (CCCS) is developing guidelines on greenwashing to target errant marketing by companies and suppliers alike, while the Monetary Authority of Singapore (MAS) monitors banks for such practices. Regional efforts focus on the ASEAN Taxonomy for Sustainable Finance. Internationally, Singapore collaborates on finance-focused greenwashing efforts, through the annual United Kingdom-Singapore Financial Partnership dialogue.	✗	
 Indonesia	✓	✓	✓	✓	✓	(Ecolabel logo and Regulation on Environmental Protection and Management)	✓ (Sustainability Reporting for Financial Institutions and green bonds issuance framework)	The Financial Services Authority (OJK) is debating coal-fired power plants' inclusion in its green taxonomy and improving sustainability reporting due to NGO and media pressure. The ASEAN Green Finance Working Group and ACOP are also developing regional green finance standards and enhancing environmental awareness to indirectly combat greenwashing through transparency and standardized practices.	✓ Consumer goods, energy, pulp and paper sectors.
 Taiwan	✓	✓	✓	✗	✓	(Regulations on Information to be Published in the Annual Report of Financial Holding Companies)	There are no national, regional or international discussions or proposals to specifically address greenwashing.	✗	
 Thailand	✓	✓	✓	✗			The Securities Exchange Commission (SEC) of Thailand and the Bank of Thailand have emerged as the most active regulators. A notable regional initiative to combat greenwashing is the ASEAN Taxonomy for Sustainable Finance.	No	
 Brazil	✓	✓	✓	✗	✓	(Resolutions of disclosure and transparency for investment funds)	Brazil is advancing with new regulations to tackle greenwashing, exemplified by recent ESG resolutions from both the Brazilian Securities and Exchange Commission (CVM) and the Central Bank of Brazil. Bill 2838/22, which is under review, aims to classify economic activities by their environmental impact.	✓ Financial services, pulp, consumer goods sectors.	
 Canada	✓	✓	✓	✓	✓	(Bill C-59 amended the Competition Act to address greenwashing)	✓ (Climate-Aligned Finance Act)	Bill C-59 amended the Competition Act, introducing anti-greenwashing provisions. Following a public consultation process, the Competition Bureau intends to release guidance on its enforcement of these provisions. In addition, the Fossil Fuel Advertising Act (Bill C-372), prohibiting the promotion of fossil fuels with limited exception, and the Climate-Aligned Finance Act (Bill S-243), aligning financial institutions with climate action, are both before parliament and not yet passed.	✓ Energy, financial services, fashion and forestry sectors.
 Colombia	✓	✓	✓	✓	✓	(Decree establishing requirements for environmental advertising)	✓ (Decree to enhances transparency disclosure practices by securities issuers)	There is a Bill before Congress aiming to regulate labelling, advertising and any other form of marketing that is related to environmental attributes of a product.	✗
 Chile	✓	✓	✓	✓	✓	(ClimateChangeFramework-Law)	✓ (General Rule introduces sustainability information requirements, Sustainable Investment Guide, Implementation Guide and Climate Change Framework Law)	The Chilean Association of Investment Fund Administrators (ACAFI) defined greenwashing in its Sustainable Investment Guide. Moreover, a bill in the House of Representatives aims to combat greenwashing. The Financial Market Commission will submit a draft regulation on ESG matters and fund investments for public discussion.	✗
 Mexico	✓	✓	✓			(Mexico's Sustainability Taxonomy, the Official Mexican Standards and the Distinctive ESR)	✗	In Mexico, the financial sector is advancing with voluntary practices like thematic bonds, green loans, and sustainability-linked KPIs, reflecting a commitment to sustainable finance. Additionally, a draft Law for the Regulation and Certification of Ecological and Sustainable Products is underway.	✓ Energy sector.
 United States	✓	✓	✓	✓	✓	(U.S.Green Guides)	✓ (Rule regarding the use of ESG-related terms in names and Rules to Enhance and Standardize Climate-Related Disclosures for Investors)	The U.S. Green Guides, currently under revision, do not explicitly define the term greenwashing, but the guideline does specify that the Federal Trade Commission's objective with the Green Guides is to assist marketers in avoiding greenwashing practices.	✓ Automotive, food, airlines, fashion sectors.

In this section you will find a detailed explanation on how each jurisdictions' regulatory framework tackles greenwashing practices. In addition, we provide an in-depth analysis of the most notable greenwashing cases that have taken place in the 25 jurisdictions under review.





# European Union



In recent years, sustainability has risen to the forefront of the EU's agenda due to the urgent challenges and risks posed by climate change, environmental degradation, and the depletion of natural resources. Consequently, the EU has made sustainability a central pillar of its policies.

## 1. What laws address the transparency of green claims?

There are **general rules in relation to consumer protection, competition law and marketing** that establish a level playing field that prevents misleading and unfair practices. The **Unfair Commercial Practices Directive (2005/29/EC)**, amended by Directive 2019/2161, enhances consumer confidence and facilitates cross-border trade, particularly for Small and Medium-sized Enterprises (SMEs). However, addressing greenwashing has become a major concern for European regulators, leading to the approval of **specific initiatives within the framework of the EU Green Deal: CSRD, CSDDD, and the proposed Green Claims Directive**, among others.

**European Union Green Claims Directive** On March 22nd, 2023, the European Commission proposed the Green Claims Directive. **The proposal is under legislative scrutiny for its approval.**

Its **objective** is to **promote transparency and credibility in companies' environmental claims** and to eliminate misleading environmental messages within the EU.

The **Directive will affect all environmental claims made by traders in business-to-consumer practices within the EU**, and Member States will be responsible for ensuring compliance and enforcement.

The **Directive mandates adherence to specific criteria when issuing environmental declarations.** Companies must substantiate their environmental claims using life cycle assessments that evaluate the environmental impact of their products. These **claims must be communicated accurately after being verified by an independent third-party organisation**, which establishes protocols to validate the credibility of the environmental claims.

In cases of non-compliance, **penalties will be determined based on the infringement's nature, gravity, scope,**

**duration, the financial stability of the entity, the economic benefits gained, and past non-compliance incidents.**

## Empowering Consumers for the Green Transition

Complementary to the EU Green Claims Directive, on **February 20th, 2024, the Council of the EU adopted the Directive** on Empowering consumers for the Green Transition. Published in the Official Journal on March 6th, 2024, this initiated the 24-months period within which all EU Member States have to transpose the Directive into national law.

By clarifying the conditions under which environmental claims can be made, the objective of this Directive is to protect consumers from unfair practices and provide them with better information. It **enforces a prohibition on generic environmental claims, and restricts the use of ambiguous terms** such as 'environmentally friendly' **unless substantiated by credible**

**evidence validated by an authorised body. Terms** like 'climate-neutral' or 'climate-positive' **related to carbon dioxide (CO2) emissions are explicitly prohibited.** The Directive also specifies

that advertising a product or company as environmentally friendly will be inadmissible if only a minor aspect of the product or company has sustainability improvements.

## Corporate Sustainability Due Diligence Directive (CSDDD)

**The Directive extends beyond the environmental responsibilities of businesses and introduces a legislative framework requiring companies to substantiate their actions in protecting both the environment and human rights.**

After intense negotiations and substantial adjustments that reduced both the scope and timeline of the Directive, the CSDDD entered into force on July 25th, 2024, marking the start of the 24-month period

# European Union



during which Member States must transpose it into national law.

The Directive **targets large companies within and outside the EU, including those in the financial sector**, (financial undertakings included but financial services provided in the context of relationships with clients are excluded from material scope), addressing potential negative effects from their operations and those of their partners. Phased in over three to five years based on company size and turnover, the rules apply to EU companies with over 1,000 employees and a turnover of 450 million euros, as well as non-EU companies operating in the EU with the same turnover threshold.

Overall, the Directive establishes requirements to ensure that goods and services offered in the EU are produced in compliance with fundamental protection standards for both people and the environment. For European companies benefiting from global supply chains, this means they must use

these networks without compromising essential protection standards for everyone involved.

## Corporate Sustainability Reporting Directive (CSRD)

The EU Corporate Sustainability Reporting Directive (CSRD) significantly **expands the existing rules on non-financial reporting, requiring in-scope companies to report on the impact of their activities on the environment and society, and to audit the reported information**. The Directive requires sustainability information to be disclosed in the management report, eliminating the option to publish non-financial information separately. The CSRD entered into force in 2023, and the **deadline for national transposition of the Directive requirements was July 6th, 2024**.

The new **reporting obligations apply to all companies listed on an EU-regulated market, except for micro-enterprises**. Only listed SMEs fall

directly within the scope of CSRD, with provisions being phased in. Affecting approximately 42,500 companies across the EU, it **also reaches non-capital market-oriented companies** if they meet at least two of the following three criteria:

- 1) a balance sheet total exceeding 25 million euros,
- 2) net sales over 50 million euros,
- 3) or having more than 250 employees

The CSRD adopts a double materiality perspective, requiring companies to report on how sustainability aspects affect their economic situation and how their operations impact sustainability aspects.

Under the CSRD, companies must include information on their sustainability goals, the roles of the executive and supervisory boards, the company's most significant adverse impacts, and intangible resources not yet accounted for.

It is important to recognise that the reporting requirements mandated by both **CSRD and CSDDD present significant challenges for SMEs** due to the complexities they face in addressing environmental, social, and corporate governance issues. **This matter was examined by the European Financial Reporting Advisory Group (EFRAG)**, who opened consultation until May 2024 on its proposal for a set of sustainability indicators adapted for SMEs. Only listed SMEs fall directly within the scope of CSRD, with provisions being phased in. However, there are other SMEs that may be indirectly impacted due to value chain requirements. Therefore, EFRAG is concurrently developing both Listed SME ESRS and Voluntary SME ESRS to address these considerations. The goal is to determine which information is essential for SMEs to disclose and what is realistically achievable for them.

## 2. Is 'greenwashing' defined in legislation?

The EU Green Claims Directive provides a clear definition of greenwashing, describing it as the practice of creating a false impression of the environmental impact or benefits of a product, potentially misleading consumers.

## 3. Key stakeholders

Growing awareness within the EU has led NGOs like ClientEarth and Greenpeace, along with consumer associations, to spearhead greenwashing litigation and disputes. This heightened awareness highlights the associated risks. Additionally, national consumer authorities and financial services regulators have increased scrutiny to prevent these deceptive practices.

# European Union



## 4. Focus on financial services Sustainable Finance Disclosure Regulation (SFDR)

The European Commission introduced the SFDR in March 2021 as part of a legislative package that includes the Taxonomy Regulation and the Low Carbon Benchmarks Regulation. The SFDR **aims to ensure fairness among financial market participants and advisers by enhancing transparency on sustainability risks**. It mandates considering negative sustainability impacts in investment decisions and providing sustainability-related disclosures for financial products.

The development of the SFDR has been a work in progress. Recent **updates took place at the end of 2023 when the Commission opened consultation on the SFDR's implementation** to identify strengths and weaknesses and gather opinions on potential future changes, such as the introduction of

a product labeling system. On May 3rd, 2024 the Commission published the Summary Report of the Open and Targeted Consultations on the SFDR assessment.

In December 2023, the **ESAs released their final report on specific aspects of the SFDR Delegated Regulation**, covering the disclosure of principal adverse impacts (PAI) and new requirements for decarbonization targets. In 2024, the Commission will review the report, and if endorsed, it will be considered for approval by the European Parliament and Council.

On May 14, 2024, **ESMA published the Final Report on guidelines for investment funds using ESG or sustainability terms in their names**. These guidelines require at least 80% of investments to meet environmental, social, or sustainable objectives and apply exclusion criteria from the Paris-aligned Benchmarks (PAB). The

guidelines will be translated into all EU languages and published on ESMA's website, taking effect three months later. Competent authorities must notify ESMA of their compliance within two months. Existing funds have a six-month transition period, while new funds must comply immediately.

In response to the European Commission's request for input on greenwashing risks and the supervision of sustainable finance policies, **the European Supervisory Authorities (EBA, ESMA and EIOPA- the ESAs) published their Final Reports on Greenwashing in the financial sector in June 2024**. The reports outline a common understanding of greenwashing, applicable across banking, insurance, pensions, and financial markets, and an assessment of how each one is currently addressing the risk of greenwashing.



# Austria



**There are no specific anti-greenwashing laws in Austria, pending the anticipated transposition of the proposed EU Green Claims Directive. Instead, green claims are currently regulated using consumer protection and fair competition laws. Enhancements to these laws, in the form of targeted regulations that refine and prohibit greenwashing, ensuring that companies provide accurate and transparent information about their information about their environmental claims, are being considered.**

## 1. What laws address the transparency of green claims?

The **Austrian Consumer Protection Law prohibits false or misleading advertising** and aims to ensure that companies provide accurate and transparent information about their products or services, including their environmental claims.

The **Austrian Federal Competition Authority (Bundeswettbewerbsbehörde) is responsible for enforcing fair competition laws.** If a company engages in deceptive advertising or greenwashing practices, the authority can investigate and take appropriate action to protect consumers and maintain fair market conditions.

The **Austrian Ecolabel (Österreichisches Umweltzeichen)**, is a **voluntary certification** scheme that helps consumers identify environmentally friendly products and

services. It sets strict criteria for various product categories, and companies must meet these criteria to obtain the label. The ecolabel helps consumers make informed choices and reduces the risk of greenwashing.

The **Austrian government and relevant authorities are actively adapting national regulations to tackle greenwashing**, strengthening consumer protection laws, and considering new regulations to ensure businesses provide accurate and transparent environmental information.

## 2. Is 'greenwashing' defined in legislation?

There is **no specific national law or regulation in Austria that explicitly defines greenwashing.** However, the proposed EU Green Claims Directive establishes a definition that should be transposed into local law once approved.

## 3. Key stakeholders

In Austria, stakeholders are sensitive to greenwashing's impact on consumers, investors, and the environment. They actively monitor, research, and advocate for transparency and sustainability, providing information and resources to help consumers understand environmental claims, encouraging critical thinking, and promoting sustainable consumption. **Industry associations, consumer organizations, and NGOs in Austria work together to develop industry-specific guidelines and best practices.** These efforts aim to establish clear standards, promote transparency, and hold companies accountable for their environmental claims.

The **Austrian Association for Consumer Information (Verein für Konsumenteninformation "VKI") has initiated a campaign centred on scrutinizing environmental claims,**

introducing a "greenwashing check" for consumers to report potentially misleading assertions. This involves VKI assessing reported claims, alongside those it identifies, and requesting clarification from advertisers. Should an advertisement be deemed greenwashing, VKI publishes the findings on its website.

**Proxy advisors provide research and recommendations to institutional investors on corporate governance and sustainability issues** and are increasingly important in Austria. While their primary focus is on governance matters, they are increasingly considering environmental factors, including greenwashing, in their assessments. Proxy advisors assess companies' sustainability practices and disclosures, including the accuracy of their environmental claims, and provide guidance to investors on voting and engagement strategies.

# Austria



## 4. Focus on financial services

The Austrian government, financial institutions, and **regulatory bodies such as the Austrian Financial Market Authority (FMA) are working towards integrating ESG factors into regulatory frameworks and investment decisions.** Regulators are working on guidelines and standards for sustainable finance, which include measures to prevent greenwashing and ensure reliable ESG disclosures. Moreover, national financial authorities have collaborated with the European Supervisory Authorities (ESAs) in the Common Supervisory Action performed in 2023.

## 5. Recent cases

In 2023, the **VKI** filed a lawsuit against an airline on behalf of the Ministry of Social Affairs for advertising flights as CO2-neutral using 100% sustainable aviation fuel (SAF). The Korneuburg Regional Court followed the VKI's legal opinion and judged the advertising to be a misleading business practice. According to the ruling, the airline gave a false impression through its advertising statements. The ruling ordered the airline to publish information about the case on its social media.

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# Belgium



**There are no specific anti-greenwashing laws in Belgium, pending the anticipated transposition of the proposed EU Green Claims Directive. Instead it is currently regulated using civil, consumer protection and advertising laws.**

## 1. What laws address the transparency of green claims?

Belgium's existing regulations prohibit deceptive practices, including greenwashing, through general consumer protection laws. Misleading advertising is banned across sectors by civil law and consumer protection regulations.

In 2022 the Belgian Federal Public Service for Economy (FPS Economy) issued '**Guidelines on Environmental claims' which embed the concept of greenwashing into existing consumer protection legislation (under the Belgian Economic Law Code)** and more specifically linked it to the legal notion of "unfair commercial practices". Legal doctrine also links greenwashing to other general legal instruments, such as forgery, forged annual accounts and deceptive communication (e.g. under the Prospectus Act).

There are also other, more sector/product-specific regulations on green claims, e.g. for cosmetics, detergents, (the Belgian detergent sector was the first in Europe to adopt a charter on environmental advertising), dangerous chemicals, construction materials, food and organic food.

The General Guidelines published by the FPS Economy mention that **infringements involving greenwashing are subject to criminal sanctions of up to €80.000 in fines or 4% of annual turnover** (in case the latter is a higher amount). In addition, the FPS Economy can launch a further investigation (either following a complaint or at its own initiative), which can lead to a number of administrative sanctions, including a warning, a settlement transaction, an administrative fine (amounts equal to the criminal fines) or passing on its findings to the public prosecutor.

The "**Environmental Advertising Guidelines**" that were created by the Jury for Ethical Practices on Advertisement, which is the Belgian self-disciplinary body for the advertising sector **do not have an official legislative status but are to be upheld by the Belgian advertisement sector.**

## 2. Is 'greenwashing' defined in legislation?

Whilst it is not defined in law, **the guidelines describe greenwashing as "commercial practices that are misusing green positioning or environmental practices for marketing purposes, whereby greenwashing can be performed by any type of organisation, such as a company, a producer or an administration."** The guidance further specifies that greenwashing can cover any type of commercial practice of companies

vis-à-vis consumers in relation to the environmental features of goods or services. The following examples are given of companies engaging in greenwashing:

- a product marketed as environmentally beneficial in reality offers no environmental benefit.
- sustainable claims are made without any supporting methodology.
- messaging towards consumers proves misleading in relation to a company's efforts towards more sustainable policies or the ecological quality of the product it markets.

# Belgium



### 3. Key stakeholders

There is a growing stakeholder awareness of the importance of combatting deceptive environmental marketing practices. The FPS Economy received 21 greenwashing complaints in 2022 – a doubling of the 9 complaints received in 2021). FPS Economy performed 55 inspections in 2022, resulting in a total of 36 warnings. All companies proceeded to an amicable regularisation of their infringements.

In 2023 the Belgian government launched a public campaign on greenwashing called “too good to be green” and also put in place a webpage where greenwashing complaints can be filed. The website also provides information on how to recognize false green claims/greenwashing.

### 4. Focus on financial services

The Belgian General Guidelines on Environmental Claims do not address the financial sector. Nonetheless, **the Belgian Financial Services and Markets Authority (FSMA) has expressed concerns about greenwashing in the financial sector**, particularly regarding “sustainable” investments marketed by banks, insurance companies, financial intermediaries, and other regulated entities. **Although the Belgian legislator has not yet established specific penalties for greenwashing in the financial sector, the FSMA has the authority to impose a range of sanctions under its general supervisory function.**

**In 2023 the Belgian government launched a public campaign on greenwashing called “too good to be green” and also put in place a webpage where greenwashing complaints can be filed.**

The **Belgian banking federation Febelfin has created a Belgian sustainability label for financial products**. The label is open to both Belgian and non-Belgian issuers and has proven quite successful, with at present approximately 800 financial products that hold a Towards Sustainability label.

### 5. Recent cases

Based on the publicly available decisions of the Jury for Ethical Practices on Advertisements, the **sectors most likely to attract scrutiny are the automotive, real estate, energy, and food & beverage sectors.**

There have, however, been no relevant greenwashing litigation cases in Belgium so far.

### KPMG Contacts



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# France



Although there are no specific anti-greenwashing laws in France, it is addressed through general legislation prohibiting false advertisements or false representations. Additionally, EU directives on the topic will be transposed into national law once approved.

## 1. What laws address the transparency of green claims?

The **French Consumer Code** as amended by a law as of August 22, 2021, on combating climate disruption and strengthening resilience to its effects, **provides in Article L121-2 that a commercial practice is misleading if it is based on false or misleading allegations, indications or presentations concerning**, among others, “The essential characteristics of the good or service, namely: its substantial qualities, its composition, its accessories, its origin and the results expected from its use, in particular its environmental impact, as well as the results and main characteristics of the tests and controls carried out on the good or service”.

The broad definition of the prohibition allows misleading environmental claims to be penalized, including by reference to the non-binding rules and recommendations issued by the

Autorité de Régulation Professionnelle de la Publicité (ARPP) on “sustainable development”. It is supported by guidance on misleading or exaggerated practices in environmental communication and how to combat greenwashing.

Other relevant laws include:

- **Energy transition Law for green growth 2015:** introduces obligations on manufacturers making green claims to detail to consumers the main corresponding environmental characteristics of these products and services.
- **Law 2020-105 of February 10, 2020, on the fight against waste and the circular economy:** Law 2020-105 has been put in place to oblige producers, importers and distributors of electrical and electronic equipment (EEE) to provide sellers and those who request it with the reparability index for this equipment, as well as the criteria

used to determine it. Sellers of EEE, including online sellers and those using online sales platforms, must pass on this information to consumers free of charge at the time of purchase, whether by marking, labeling, display or any other appropriate means. This information must also be available online (article L 541-9-2, I of the French Environment Code).

- **Law August 22, 2021 to combat climate change and strengthen resilience to its effects:** intended to promote environmental awareness and accelerate ecological transition. The law bans all advertising for fossil fuels and new cars with specified levels of carbon dioxide emissions.
- **Decree No. 2022-539 of April 13, 2022, concerning carbon offsetting and carbon neutrality claims in advertising:** the Decree, which came into effective on January 1, 2023, outlines regulations for advertisers making carbon neutrality claims in their

advertisements. It mandates them to transparently communicate the carbon neutrality of their products or services and provide evidence to support their claims. **This legislative move seeks to enhance transparency in advertising, ensuring that environmental claims are both accurate and verifiable**, thereby protecting consumers and promoting genuine sustainability practices in business operations.

**The ADEME (Agence française pour la transition écologique) has published a guide to combat greenwashing** providing recommendations for companies to avoid misleading practices in environmental communications. The aim of the guide is to promote transparent and honest communication on the environmental actions undertaken by companies.



# France



## 2. Is 'greenwashing' defined in legislation?

There is no explicit definition of greenwashing in French law. However, the **Proposal of the EU Green Claims Directive establishes a definition, that should be transposed into local law once approved.**

## 3. Key stakeholders

Stakeholders are becoming increasingly aware of ESG issues, agencies and authorities have also been set up, such as the **Haute Autorité de l'Audit, which will supervise and sanction auditors of financial information**, as well as **the ARPP and the Agence de la Transition Ecologique.**

## 4. Focus on financial services

The European Securities and Market Authority's report on greenwashing in the financial sector indicates a growing supervisory and investor-driven focus on the mitigation of greenwashing risks.

## 5. Recent cases

**Greenwashing cases have been prevalent in the consumer goods (cleaning products, cosmetic brands, etc.), food, fast fashion, and transportation.** Particular cases include:

- a challenge by ARPP to the claims made by a water company in relation to the amount of plant-based plastic included in its plastic bottles;
- a finding by the ARPP that claims that particular cleaning products were environmentally friendly and zero waste were ultimately unfounded; and

- a business claimed that its products were ecological and respectful of the planet. The ARPP found that the product was not made entirely from biosources materials, nor was it recyclable and as a result, its manufacture and distribution had negatively impacted the environment and the claim was not justified.

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# Finland



There are no specific anti-greenwashing laws in Finland, pending the anticipated transposition of the proposed EU Green Claims Directive. Instead it is currently regulated using consumer protection laws.

## 1. What laws address the transparency of green claims?

The **Consumer Protection Act (38/1978) prohibits false or misleading marketing communications** (including omissions) that might influence purchasing decisions. When assessing the sufficiency of information,

the clarity, comprehensibility and timeliness of the information, the limitations of the communication medium used, and any other measures taken by the trader to make the relevant information available to consumers, shall be taken into consideration.

The **Consumer Protection Act (561/2008) allows prohibitory injunctions, enforced by notice of a conditional fine, to be imposed on traders by the Market Court or the Consumer Ombudsman** to prevent them from continuing or repeating problematic practices. The **Consumer Ombudsman works in conjunction with the Finnish Competition and**

**Consumer Authority (FCCA)** and enforces compliance with consumer protection legislation, with particular focus on marketing and contract terms.

## 2. Is 'greenwashing' defined in legislation?

There is no specific national law or regulation in Finland that explicitly defines greenwashing. However, the **proposed EU Green Claims Directive establishes a definition that should be transposed into local law once approved.**

## 3. Key stakeholders

The awareness of the different stakeholders in the Finnish market is increasing. The highest sensitivity is among NGOs.

The **Consumers' Union of Finland is a consumer NGO in Finland** safeguarding the interests of

consumers, patients and clients of social services and health care. It has researched and published several articles of greenwashing. It has also for example joined forces with European consumer organizations and launched EU-wide complaint against major water bottle producers for greenwashing.

There are also other NGOs (e.g., Finnwatch, Greenpeace) that are bringing greenwashing issues up regularly and demanding actual environmental actions.

## 4. Focus on financial services

The **Act on the Financial Supervisory Authority (878/2008) aims to prevent greenwashing by implementing the EU Sustainable Finance Disclosure Regulation (SFDR) 2019/2088** by providing the regulatory framework and enforcement mechanisms necessary to address deceptive practices in financial markets, including those related to environmental claims. It also **grants**

**the Financial Supervisory Authority (FSA) powers to oversee financial institutions**, ensuring they operate in compliance with regulations, including transparency and accuracy in their communications with consumers and investors. This authority extends to the monitoring of disclosures made by financial institutions regarding ESG factors, including claims related to sustainability and responsible investing.

**The FSA may impose an administrative fine on anyone who wilfully or negligently fails to comply with or violates the provisions of the SFDR** regarding the transparency of sustainability risks policies, transparency of remuneration policies in relation to the integration of sustainability risks, or the requirements to review and update published information.

# Finland



## 5. Recent cases

### The Consumer Ombudsman has challenged greenwashing in marketing communications:

- an ice cream manufacturer was required to address the overly general use of “sustainable” in product marketing and the highlighting of certain environmental impacts in a misleading manner. It concluded that marketing a product as sustainable requires comprehensive grounds and accurate information to support the claim;
- it challenged the use of vague environmental claims in online shops that gave a misleading impression of the businesses’ responsibility, sustainability and friendliness; and
- it intervened against marketing claims by an airline regarding the greenhouse gas emissions of aviation fuel that gave a misleading impression of the positive environmental impacts of air travel.

### The Market Court has also ruled on greenwashing:

- in 2003 it prohibited an insulation company from using the general and unspecific expression “saves nature” and other unsubstantiated claims concerning low energy consumption at the manufacturing phase in the marketing of insulation; and
- In 2011 it prohibited a food company from continuing a marketing ploy that gave the misleading impression that by purchasing a marketed product, the consumer can immediately influence the company’s (predetermined) financial support for charity.

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# Germany



Although there are no specific anti-greenwashing laws in Germany, it has developed its own Due Diligence in Supply Chains Act. Local general provisions address greenwashing through legislation prohibiting false advertisements or false representations.

## 1. What laws address the transparency of green claims?

Greenwashing is addressed by general national regulations on marketing, false/misleading advertisement, presentation/advertisement of products or financial products and prospect law, in particular by:

- **Act against Unfair Competition (Gesetz gegen den unlauteren Wettbewerb, "UWG"):** The UWG contains provisions that prohibit unfair business practices, including misleading advertising and marketing practices that could deceive consumers;
- **Environmental Information Act (Umweltinformationsgesetz, "UIG"):** The UIG regulates access to environmental information and requires companies that publish environmental data to provide accurate and reliable information; and

- **Act against Restraints of Competition (Gesetz gegen Wettbewerbsbeschränkungen, "GWB"):** The GWB contains provisions to prevent distortions of competition, including misleading business practices that could influence the market.

There are **specific provisions regarding the consequences of carrying out an incomplete or incorrect reporting:**

- Fines (Sections 331 HGB, 400 AktG)
- Claims for damages: Sections 823 (2) BGB in conjunction with the provisions against false statements in reporting (Sections 331 HGB, 400 AktG) and Sections 263, 264a StGB (German Criminal Code)
- Claims for damages due to prospectus liability or due to failure to publish insider information immediately or incorrectly (WpHG)

Germany has implemented its own Due Diligence in Supply Chains Act, the Lieferkettensorgfaltspflichtengesetz (LkSG). The LkSG, which came into force on January 1, 2023, imposes extensive human rights and environmental due diligence obligations on companies with a certain minimum number of employees within their supply chains.

Additionally, EU directives on the topic will be transposed into national law once approved. Greenwashing.

## 2. Is 'greenwashing' defined in legislation?

There is no specific definition of greenwashing in German law. However, the **Proposal of the EU Green Claims Directive establishes a definition, that should be transposed into local law once approved.**

## 3. Key stakeholders

The risk of greenwashing has become a sensitive issue for many stakeholders. **Banks are increasingly aware of these risks due to ongoing criminal proceedings in the financial sector.** Financial institutions recognize the dangers associated with how their financial products are presented in prospectuses. Similarly, car manufacturers in Germany, who have faced lawsuits, are also conscious of greenwashing risks.

**Consumer organizations in Germany are also highly active** and aware of greenwashing risks, working diligently to address and mitigate these issues.

# Germany



## 4. Focus on financial services

The **financial supervisory authority, Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin), is particularly attuned to greenwashing concerns and combats it through various measures.**

For instance, BaFin ensures that supervised institutions meet their disclosure obligations under the EU Disclosure Regulation and verifies that their marketing communications do not contradict disclosed information. Additionally, BaFin assesses how companies implement sales requirements related to sustainability preferences.

## 5. Recent cases

There has been a number of cases in Germany brought in relation to sustainability related issues. Most recently, some activists brought a case against a number of car makers who refused to reduce their emission goals.

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# Ireland

There are no specific anti-greenwashing laws in Ireland, pending the anticipated transposition of the proposed EU Green Claims Directive. Instead it is currently regulated using consumer protection laws.

## 1. What laws address the transparency of green claims?

The **Irish Consumer Protection Act 2007 (“CPA”)** prohibits **false or misleading market** communications that might influence consumers. A trader who engages in misleading commercial practices **could face penalties of up to a 60,000 euro fine or an 18 month imprisonment sentence.**

The **Code of Standards for Advertising and Marketing Communications in Ireland (ASAI Code)** specifically regulates **environmental** claims. It prohibits “absolute claims” which are not “supported by a high level of substantiation”.

## 2. Is ‘greenwashing’ defined in legislation?

There is no specific national law or regulation in Ireland that explicitly defines greenwashing. However, the **proposed EU Green Claims Directive establishes a definition, that should be transposed into local law once approved.**

## 3. Key stakeholders

The awareness of different stakeholders in Ireland is increasing. The highest sensitivity is among NGOs.

The **Advertising Standards Authority for Ireland (ASAI)** and the **Competition and Consumer Protection Commission (CCPC)** regulates **false and misleading claims against consumers.** The CCPC enforces the CPA and has a range of enforcement powers under the legislation. The ASAI investigates complaints arising from consumers reporting companies who have failed to comply with the ASAI Code.

## 4. Focus on financial services

The European Securities and Market Authority’s report on greenwashing in the financial sector indicates a growing supervisory and investor-driven focus on the mitigation of greenwashing risks. It is likely that proxy advisers in Ireland will be highly sensitive towards the issue of greenwashing as they play a significant role in advising shareholders on voting matters, such as ESG issues.

## 5. Recent cases

In recent years there has been indications of increased enforcement efforts in combating greenwashing in Ireland. **In 2021, the CCPC approached several Irish companies as part of a coordinated “market sweep”** at EU and international level, urging them to substantiate or withdraw certain “green” claims.

## The ASAI has challenged greenwashing in marketing communications:

an article about a motor vehicle manufacturer’s sustainability claims was investigated after the ASAI received submissions from the public. The article asserted that “mild hybrid tech cuts down on the amount of fuel” which the ASAI found is likely to mislead consumers due to the omission of a comparison to any other mode of transport in the article. The ASAI held the article to be in breach of the ASAI code and concluded that the advertisement should not be used again in its current form;

# Ireland

should not be used again in its current form;

- the ASAI also investigated an advertisement claiming that a lawnmower was “environmentally friendly”. The ASAI determined that there was a lack of evidence provided to verify that the product did not cause environmental damage, therefore, the advertiser was required to remove the advertisement; and

- the ASAI upheld a greenwashing complaint against a representative body which had made a claim about their global carbon footprint based on a study completed 13 years prior. The ASAI determined that it was insufficient evidence to base their claim on as they could not prove the country rankings in relation to global carbon footprints had not changed in the past 13 years.

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# Italy



**There are no specific anti-greenwashing laws in Italy, pending the anticipated EU Green Claims Directive. Instead it is currently regulated using consumer protection laws.**

## 1. What laws address the transparency of green claims?

The **Italian Consumer Code prohibits false or misleading marketing communications** (including omissions) that might influence purchasing decisions. Italian Consumer Law permits sanctions and administrative monetary penalties that vary according to the level of seriousness and the activity of the operator to eliminate the consequences based on their economic and financial status.

**Greenwashing practices may qualify as unfair competition if it grants a competitive advantage** to the services and products sponsored and leads the public into confusion or undue association under the Italian Civil Code. If a company is held liable, they may receive an injunction aimed at the termination of practices and be held liable for damages.

The **Institute for Advertising Self-Regulation (IAP) has established the Advertising Self-Regulation Code** which governs advertising practices in Italy. It is responsible for determining the criteria for true, honest and correct commercial communication which associates may adhere to on a voluntary basis. It can issue injunctions for incorrect advertising and provide preliminary opinions on advertisement compliance

**The IAP describes greenwashing** as “an operation aimed at cloaking commercial communication with ecological/ green claims that are not supported (either fully or to the extent stated in the advertising message) on the merits”.

**The IAP describes green claims** as those claims that refer, implicitly, or explicitly, to the relationship between a product or a service and

the environment that promote an environmentally friendly lifestyle, and that present a corporate image characterized by environmental commitment.

## 2. Is ‘greenwashing’ defined in legislation?

There is no explicit definition of greenwashing in Italian law. However, the **proposed EU Green Claims Directive establishes a definition, that should be transposed into local law once approved.**

## 3. Key stakeholders

The awareness of different stakeholders in the Italian market is increasing.

**Sustainability reports are mandatory for listed companies and voluntarily adopted by non-listed companies.**

Reports include anti-greenwashing commitments, prevention measures and policies; and supply chain controls.

Other stakeholders include the **bodies responsible for enforcing and overseeing greenwashing regulations, such as: the Competition Authority (the Autorita Garante della Concorrenza del Mercato “AGCM”), the Ordinary and Administrative Courts; and the IAP.**



# Italy



## 4. Focus on financial services

The **European Securities and Market Authority's report on greenwashing in the financial sector** indicates a growing supervisory and investor-driven focus on the mitigation of greenwashing risks.

## 5. Recent cases

The majority of greenwashing cases have been observed in the **food, fashion, and oil and gas sectors**.

For example, the **Italian Competition Authority (ICA) has challenged greenwashing in marketing communications:**

- it challenged marketing claims of environmental sustainability relating to the agricultural production and the Italian origin of foodstuffs and raw

material used. The ICA sanctioned the company for adopting claims with the capacity to significantly affect consumers' economic choices;

- in 2020, the ICA investigated an energy company's "misleading commercial practice" which advertised organic, green and renewable diesel that allegedly reduced gas emissions by up to 40 per cent. The ICA ordered the company to stop using the misleading advertisement and issued a € 5 million fine;

in 2015, the ICA investigated a motor vehicle company for allegations of false declarations in relation to the level of polluting emissions and their specific green features. The ICA found the company liable for unfair commercial practices and breaches of the Italian Consumers Code. The ICA issued a € 5 million fine.

In a 2021 case, the Court of Gorizia ruled that greenwashing belongs to the field of misleading advertising. The case concerned a company in the automobile upholstery industry which bought a competitor to court over their use of green claims and references to environmental benefits. The Court of Gorizia found that the references to environmental benefits were not verifiable and likely to confuse possible recipients.

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# Netherlands



Alongside the local general provisions that address greenwashing through legislation prohibiting false advertisements or false representations, there are specific guidelines that address this issue in the Netherlands. Additionally, EU directives on the topic will be transposed into national law once approved.

## 1. What laws address the transparency of green claims?

The existing Netherlands regulation sets out general conduct prohibitions which cover deceptive or misleading practices by companies which could be characterised as greenwashing conduct. Greenwashing is regulated by alternative means of consumer protection granted by general law and other soft law instruments.

The Dutch government prohibits misleading advertising in different sectors through general provisions covered by civil law and other consumer protections regulations. **The Dutch Civil Code and the Dutch Consumer Protection Enforcement Act set out general prohibitions which cover deceptive conducts that can be understood as greenwashing.**

The Netherlands employs a **self-regulatory system for advertising**, including labelling, which is **managed**

**by the Advertising Code Commission** (*Reclame Code Commissie*, “RCC”).

**The RCC ensures that advertising practices adhere to the Dutch Sustainability Claims Code (Code voor Duurzaamheidsreclame, “CDR”),** which provides rules and guidelines for truthful, fair, and socially responsible advertising. **The CDR** replaced the Environmental Advertising Code (*Milieu Reclame Code*, “MRC”) on February 1, 2023, and **is a part of the Dutch Advertising Code (Nederlandse Reclame Code, “NRC”).** These rules are based on the Dutch Unfair Commercial Practices Act, the Dutch implementation of the EU Unfair Commercial Practices Directive (2005/29/EC), and the EU Audiovisual Media Services Directive (2010/13/EU).

**There are also Guidelines on sustainability claims from the Dutch Authority for Consumers and Markets** (*Autoriteit Consument & Markt*, “ACM”), which are based on

EU legislation. Claims may be based on tort, unfair trade practices or misleading marketing which are subject to liability compensation based on the Dutch Civil Code and the Dutch Consumer Protection Enforcement Act.

If a company is found to be guilty of greenwashing, penalties of up to €900,000 or 1% of the gross turnover may be imposed.

## 2. Is ‘greenwashing’ defined in legislation?

The existing Dutch guidelines do not define greenwashing. However, the Proposal of **the EU Green Claims Directive establishes a definition, that should be transposed into local law once approved.**

## 3. Key stakeholders

Different stakeholders in the Netherlands are generally sensitive to the issue of greenwashing. The **competent authorities that are enforcing the stated regulations (ACM, RCC, AFM) are on the watch for greenwashing practices.**

- The **ACM is responsible for enforcing consumer protection laws** in the Netherlands. Although there is no specific regulation targeting greenwashing, the ACM can investigate and take action against companies that engage in deceptive or misleading practices, including those related to environmental claims.
- The **RCC oversees advertising standards, ensuring practices align with the NRC and CDR.** It handles complaints about misleading or unethical ads from consumers, competitors, and other stakeholders. If a violation is found, the RCC may

# Netherlands



recommend modifying or withdrawing the ad. Although it cannot impose fines or legally binding decisions, its recommendations are influential due to its “naming and shaming” policy, which publishes non-compliant advertisers’ names on its website.

## 4. Focus on financial services

In the financial sector, the **Dutch financial regulators (Dutch Central Bank and the Netherlands Authority for the Financial Markets) have introduced a set of guidelines and best practices to protect the market from greenwashing practices.** On 4 October 2023, **the Netherlands Authority for the Financial Markets (AFM) published the final version of the Guideline on Sustainability Claims** to provide market participants with the necessary tools to make accurate, clear, and non-misleading sustainability claims.

## 5. Recent cases

In recent years, greenwashing has become particularly prevalent across several industries, notably in **consumer products (including the textile and dairy industries), airlines, the energy sector, the financial sector, and the industrial sector.**

### The ACM has challenged greenwashing on several occasions:

In 2022, the ACM announced that four companies (two retail chains and two energy suppliers) agreed to adjust or discontinue the use of sustainability claims on their clothing, websites, and other platforms. Following ACM investigations, all companies committed to providing clearer information to consumers to prevent misleading practices. Although no sanctions were imposed, the companies made substantial donations to sustainable causes as compensation for their unclear claims.

### The RCC has also challenged greenwashing on several occasions:

- In 2022, complaints were lodged against two consumer product companies for misleading environmental claims. The RCC found one company’s “CO2 Neutral” sticker misleading due to a lack of clear explanation and substantiation. Similarly, another company’s “climate neutral” claims on packaging and promotional materials were deemed unsubstantiated and misleading because of insufficient evidence of emission offsetting.
- An energy company’s advertisements claiming CO2 neutrality were found misleading by the RCC, as they implied full emission compensation without adequate proof.
- In 2023, consumer and environmental groups filed a complaint against three major beverage companies for misleading claims about their plastic

bottles being “100% recycled” or “recyclable,” arguing that most bottles are not effectively recycled.

In March 2024, the **District Court of Amsterdam ruled against a company for misleading advertising after allegations by a campaign group.** The court found 15 of the company’s 19 environmental claims to be misleading. The verdict emphasized the need for honest and clear communication about emissions reduction, marking a significant victory against greenwashing and highlighting the importance of transparency in climate action.

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# Romania



**There are no specific anti-greenwashing laws in Romania, pending the anticipated transposition of the proposed EU Green Claims Directive. Instead it is currently regulated using consumer protection laws.**

## 1. What laws address the transparency of green claims?

Greenwashing falls into the framework of **unfair commercial practices under Law No. 363/2007, which prohibits misleading commercial practices** that violate the standards of professional conduct and has the capacity to significantly influence consumer behaviour. **The National Authority for Consumer Protection (NACP) is empowered to impose sanctions in response to such practices.** The NACP can also investigate complaints submitted to them by consumers.

Greenwashing can be construed as **misleading advertising under the provisions of Law No. 158/2008, which prohibits advertising that through its presentation or content, misleads or has the potential to mislead individuals.** Greenwashing can

be construed as misleading advertising under the provisions of this law.

Forthcoming regulations, are anticipated as a consequence of the **Unfair Trading Practices Directive (UTP)**. The directive places an emphasis on consumer protection by outlawing certain unfair practices. Companies operating within Romania's food and agricultural supply chain fall under the UTP and are required to comply with reporting obligations.

The Romanian Senate has issued the **Decision no. 49/2023 regarding the proposal for a Regulation of the European Parliament and of the Council establishing a Union certification framework for carbon dioxide removals - COM (2022)**, which is one of the **first decision** published in the Official Gazette of Romania **mentioning the term of greenwashing.**

## 2. Is 'greenwashing' defined in legislation?

There is no specific definition of greenwashing under Romanian law. However, the **proposed EU Green Claims Directive establishes a definition, that should be transposed into local law once approved.**

## 3. Key stakeholders

In Romania, there has been a notable rise in awareness and action regarding greenwashing with NGOs and governmental authorities.

The **Romanian Ministry of Environment, Waters, and Forests has undertaken an initiative to enhance public access to environmental information.** The Ministry plans to make legislative

amendments to ensure better access for the public to administrative topics related to the environment and plan to create dedicated channels to monitor and address public access requests related to environmental information.

# Romania



## 4. Focus on financial services

The **European Securities and Market Authority's report on greenwashing in the financial sector** indicates a growing supervisory and investor-driven focus on the mitigation of greenwashing risks.

## 5. Recent cases

In 2023, a company operating in the food and drinks industry faced criticism over its "zero waste" claim. The company had received certification confirming a reduction in operational waste instead of zero-waste status. The inconsistencies led to closer examination of the company's dedication to authentic environmental stewardship.

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# Spain



There are no specific anti-greenwashing laws in Spain, pending the anticipated transposition of the proposed EU Green Claims Directive. Instead it is currently regulated using consumer protection and competition laws.

## 1. What laws address the transparency of green claims?

The **Royal Legislative Decree 1/2007** approves the **Law 44/2006 on Improving the Protection of Consumers and Users, the General Law 26/1984 for the Protection of Consumers and Users, and the rules transposing EU Directives issued on matters of consumer protection:**

- The prohibition on misleading advertising (Art. 18) addresses the labelling and presentation of goods and services;
- under Art. 20 clear and comprehensive information about products' essential characteristics (e.g. environmental impact) must be provided;
- Art. 51 places a responsibility on importers and distributors to ensure that their products do not pose a risk to consumers and prohibits misleading environmental claims; and

- Art. 127 mandates that commercial warranties must be clear and comprehensible, so that consumers are not misled about a product's environmental benefits or durability.

**Greenwashing is also considered a form of deceptive marketing or false advertising under the Unfair Competition Law (Law 15/2015)** which can be challenged if the claims are false, misleading or unsubstantiated.

In addition, the **2009 Self-Regulation Code on commercial communications including environmental claims aims to promote responsible advertising practices in the energy and automobile industries in Spain.** It includes guidelines on the need for truthfulness, objectivity and the proper use of signs and symbols to prevent misleading consumers.

In 2020, the Spanish Council of Ministers endorsed the Government's Declaration on the Climate and Environmental Emergency, leading to the **approval of an Environmental Education Action Plan for Sustainability (2021-2025).** The **Education for Sustainable Development and Education for Global Citizenship**, has also been implemented, and it is aligned with the Spanish Government's 2030 Agenda.

## 2. Is 'greenwashing' defined in legislation?

There is no specific national law or regulation in Spain that explicitly defines greenwashing. However, the **proposed EU Green Claims Directive establishes a definition that should be transposed into local law once approved.**

## 3. Key stakeholders

Stakeholders in Spain exhibit varying degrees of sensitivity to the issue of greenwashing. **NGOs like Ecologistas en Acción and Amigos de la Tierra España** actively monitor and advocate against deceptive environmental claims. **Financial sector regulators, such as the National Securities Market Commission (CNMV), understand the importance of preventing greenwashing** to maintain market integrity and collaborate with other agencies to enforce regulations and promote transparency in the financial sector.

# Spain



## 4. Focus on financial services

Aligned with the ESAs, the Spanish Financial Sector regulatory authorities have started to develop supervisory actions to address the issue. **The CNMV has demonstrated efforts to combat greenwashing through various strategic initiatives outlined in its Activity Plan for 2023-2024.**

The CNMV focuses on combating greenwashing practices within the financial sector as part of its strategic goals for investor protection. This involves equipping vulnerable investors with tools to avoid fraudulent schemes, including greenwashing. In addition to rigorous market supervision to maintain investor confidence, the CNMV emphasizes the importance of promoting financial education as a fundamental measure of investor self-protection against financial fraud. Additionally, efforts are intensified

to encourage SMEs to use capital markets, promoting Spain's transition to a sustainable economy. The CNMV prioritizes identifying

and monitoring potential greenwashing practices, providing guidance to prevent such deceptive environmental claims.

In 2023, the CNMV actively engaged in international forums related to greenwashing and conducted various educational and awareness-raising activities to promote sustainable financial practices.

## 5. Recent cases

In Spain, greenwashing cases have been observed across various industries, such as the **food and beverage industry, fashion industry, financial sector and energy sector.**

Some notable cases include:

- Sustainable efforts of energy companies are being criticized because of their remaining substantial investments in fossil fuels.
- Textile companies are facing public criticism due to their fast fashion business models.
- Activism targeted at the disparity between a bank's sustainability claims and its actual investment practice with respect to the funding of fossil fuels.
- Companies are being accused of greenwashing its pollution records through sponsorship of COP25.

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# Norway

There are no specific anti-greenwashing laws in Norway. However, there are specific requirements for the Disclosure of Sustainability Information in the Financial Sector. There are local general provisions that address greenwashing through legislation prohibiting false advertisements or false representations.

## 1. What laws address the transparency of green claims?

The **2009 Marketing Control Act** requires marketing claims, including environmental claims to be documented. The documentation needs to be correct and up to date throughout the period in which the marketing takes place. **If the Consumer Authority or the Market Council find that a company's claims violates the act, the company risks sanctions.** These may include a prohibition on using the specific environmental claim, a coercive fine if the company does not comply with a decision, or an infringement fine. The size of the fine depends on the severity, scope and impact of the violation.

## 2. Is 'greenwashing' defined in legislation?

There is no specific definition of greenwashing under Norwegian law. However, the **proposed EU Green Claims Directive establishes a definition, that should be transposed into local law once approved.**

## 3. Key stakeholders

There is an increased focus on greenwashing in the Norwegian market from governmental authorities, industry stakeholders and NGOs.

In 2020, **a Norwegian business network, Skift, and climate organizations launched the Guide against Greenwashing.** The guide contains 10 marketing principles aimed at avoiding greenwashing. More than 500 businesses and organizations have endorsed the guide and committed to uphold its principles.

Additionally, the **Consumer Authority in Norway** is a prevalent stakeholder. The Authority has the power to verify whether an alleged green product truly adheres to the Marketing Act and the Act on Disclosure of Sustainability Information in the Financial Sector.

The Consumer Authority has a **Nordic collaboration with Finland, Sweden, Denmark and Iceland regarding consumer related topics, including greenwashing.** Through this collaboration, the consumer authorities in these countries likely share information, best practices, and strategies to address greenwashing effectively. They may also coordinate enforcement actions, conduct joint investigations, and raise awareness among consumers about how to identify and avoid deceptive environmental claims.

## 4. Focus on financial services

The **Act on Disclosure of Sustainability Information in the Financial Sector**, which implements the EU taxonomy and the SFDR, **sets out specific requirements for the financial sector.** The Consumer Authority oversees compliance with these laws and has developed guidelines for businesses to follow.



# Norway

## 5. Recent cases

The **Consumer Authority has challenged greenwashing on various occasions:**

in 2022, the Consumer Authority investigated a company's use of the Higg Materials Sustainability Index. The index measures the environmental impact up until a textile is produced but not the impact of the finished garment. The case had significant international consequences because the index and the sources it relies on were planned to be used in the EU's efforts against greenwashing;

- in 2021, several electricity companies were convicted of greenwashing by the Consumer Authority, for falsely claiming that they could guarantee that the electricity they supply is renewable or green. This violation of the Marketing Act led to them being instructed to refrain from using "renewable" or "green" in their advertisements or apps; and
- in 2007 the Consumer Authority concluded that no cars can be declared "green", and new guidelines for the marketing of cars was introduced after dialogue with car manufacturers. It became possible to highlight aspects of the cars that are more environmentally friendly than other cars, provided that this could be documented.

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# United Kingdom



Greenwashing is regulated in the United Kingdom through a combination of general consumer protection laws, supported by the specific guidelines on environmental claims set out in the CMA Green Claims Code, and through specific anti-greenwashing legislation targeted at the financial services sector.

## 1. What laws address the transparency of green claims?

- The **Digital Markets, Competition and Consumer Act 2024 (DMCC)** replaces and updates the UK's legal framework for consumer protection, including the prohibition of unfair commercial practices, including misleading environmental claims (and omissions) made to consumers in connection with the marketing and advertising of products and services. Importantly, **the DMCC grants the Competition and Markets Authority (CMA) the power to bring administrative actions against companies for breach of these rules**, with the power to fine companies deemed to be greenwashing up to 10% of their global turnover (and individuals up to £300,000), in addition to maintaining the current criminal and civil enforcement measures and penalties (fines and

potentially imprisonment) available under previous consumer protection regimes. **Enforcement under these rules is informed by the CMA's Green Claims Code which details the CMA's expectations around how companies should comply with the obligations to make accurate and clear claims about the environmental impact of their products or services.**

- The **UK Code of Non-Broadcast Advertising and Direct and Promotional Marketing (CAP Code)** and **UK Code of Broadcast Advertising (BCAP Code)** also provides an avenue for the Advertising Standards Authority (ASA) to make public rulings on advertising activity which is non-compliant with requirements on environmental claims.
- More broadly, there may be liability for greenwashing activity under other legal

frameworks such as the common law offence of misrepresentation, which may impact corporates through the 'Failure to prevent Fraud' offence that has been introduced by the Economic Crime and Corporate Transparency Act. Misleading reporting, or misstatements or omissions by directors, can also be challenged under ordinary corporate law principles.

## 2. Is 'greenwashing' defined in legislation?

An amendment proposed to the **DMCC Bill sought to define greenwashing** as "the making of unsubstantiated claims about the sustainability of products and services and unfair commercial practice". This was not, however, included in the version of the DMCC adopted in May 2024. As such, there is no statutory definition of greenwashing under UK law.

## 3. Key stakeholders

**Regulators, such as the CMA, ASA and Financial Conduct Authority (FCA), and NGOs** (who monitor greenwashing claims and advocate for consumer rights and environmental protection) are sensitive to the issues greenwashing present, thus leading to a tough stance against greenwashing conduct within the UK. This is evidenced by the strengthening of the regulatory frameworks, and by the volume of activist campaigns and litigation challenges brought against companies suspected of greenwashing – whether at a product/service or organisational level. It also reflects KPMG's own research which found that over half (54%) of UK consumers say they would stop buying from a company if they were found to be making misleading claims.

# United Kingdom



## 4. Focus on financial services

The **FCA has recorded an increase in greenwashing-related issues**, with banks and financial sectors seeing a 70% increase in the number of climate-related greenwashing incidents in 2023 compared to in 2022. The head of ESG at the FCA commented on the importance of tackling greenwashing, as the failure to do so allows green claims to mislead customers and erode trust in all ESG products. This focus has been reflected in the **FCA's Sustainability Disclosure Requirements (SDR) and sustainable investment labelling regime** which will come into force over the next couple of years and will address greenwashing concerns by: introducing prescriptive sustainability disclosure requirements; creating rules about sustainable investment product labels; and restricting the use of certain sustainability-related terms (such as ESG, green or sustainable).

In the shorter term, the **FCA's anti-greenwashing rule came into effect on 31 May 2024** to help ensure that claims about financial products or

services made by FCA regulated entities are fair, clear, and not misleading, and consistent with the sustainability profile of the product or service. The rule applies to all communications about financial products or services which refer to the environmental and/or, social (ie, 'sustainability') characteristics of those products or services. Sustainability-related references can be present in, but are not limited to, statements, assertions, strategies, targets, policies, information, and images. **Any unclear or overly technical language can also be scrutinised by the FSA in the context of applying its Consumer Duty powers.**

## 5. Recent cases

Greenwashing cases have been prevalent in many industries within the UK. Within the **fashion and retail industry**, several major e-commerce brands have faced scrutiny for claims about the eco-friendliness of their product lines and business operations. The UK courts have also been utilised by activist shareholders and NGOs to hold companies to account. Key recent cases include:

- In March 2024 three fashion companies provided undertakings to the CMA which commit them to an agreed set of rules around the use of green claims; covering green claims, fabric statements, green range criteria, use of imagery, product filters, environmental targets and accreditation schemes. The CMA has also sent an open warning letter to the wider sector calling on them to take equivalent action and highlighting the new enforcement powers under the DMCC. These undertakings provide a strong indication of the approach the CMA is likely to take in its ongoing

greenwashing investigations in the FMCG sector.

- In 2022 the ASA banned advertisements by a bank on the basis that unqualified claims as to its green credentials and the omission of material information about the bank's contribution to carbon dioxide and greenhouse gas emissions, in particular by failing to mention its financing of fossil fuel projects and links to deforestation, had the potential to mislead consumers.
- Various companies in the food and drink sector have had their advertising claims around their products, and purported links to helping the environment, challenged on the basis of a lack of substantiation.
- Environmental activists have launched complaints and litigation against oil and gas companies regarding misleading advertising, particularly around their transition from fossil fuels. Whilst many of the derivative actions have failed at early stages of the judicial process, these have still attracted significant public scrutiny.

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# South Africa

There is no specific law or regulation on green claims in South Africa. However, greenwashing practices are addressed by general legislation prohibiting false advertisements or false representations.

## 1. What laws address the transparency of green claims?

- **Consumer Protection Act 68 (2008):** Prohibits the marketing of goods or services through false, misleading or deceptive representations of fact regarding such goods or services, which would include claims about how a company's products or services are environmentally sound, beneficial or compliant.
- **Companies Act 71 (2008):** Provides that the financial statements of a company must not be false or misleading in any material respect. This is particularly relevant in the context of sustainability reporting obligations. This position is bolstered by principle five of the King IV Code on Corporate Governance which recommends that

a board of a company should ensure that reports (such as annual financial statements and sustainability reports) issued by the organisation should enable stakeholders to make informed assessments of the organisation's performance, and its short, medium and long-term prospects.

- **Advertising Regulatory Board Code of Advertising Practice (the "Code"):** Regulates advertising practices in South Africa. The Code requires that all advertisements that contain any messaging (visual or aural communication, representation, reference or notification) be legal, decent, honest and truthful –thereby prohibiting false and/or inaccurate "green claims." Appendix G to the Code specifically regulates advertising containing environmental claims.

- **Regulations relating to the Labelling and Advertising of Foodstuffs (2023):** Regulation 2(2) stipulates that manufactures, importer and sellers of foodstuffs must provide accurate information regarding the characteristics, origin, composition, quality, nutritive value, nature or other properties of a foodstuff and the time and place of its manufacture to the consumer.

## 2. Is 'greenwashing' defined in legislation?

There is no specific definition of greenwashing under South African law.

## 3. Key stakeholders

The level of stakeholder sensitivity around the issue of greenwashing is uncertain (particular amongst NGOs). However, prominent organisations such as **the Johannesburg Stock Exchange and the Advertising Regulatory Board have published guidance documents on sustainability disclosures and environmental claims** respectively, which is an indicator that a shift in accountability standards is under way, and that corporate South Africa is certainly sensitive to the issue of greenwashing.

# South Africa

## 4. Focus on financial services

The **Johannesburg Stock Exchange Sustainability and Disclosure Guidance note, 2022**, a voluntary guidance tool that may be used to, inter alia improve the quality of sustainability and ESG information made available to enable more informed investment. **The aim of this document is to assist listed companies by providing guidance on sustainability disclosures.**

## 5. Recent cases

Litigation cases specifically related to greenwashing in South Africa are not extensively recorded due to the lack of a centralised database.

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# Australia



There are no specific anti-greenwashing laws in Australia. Instead it is currently regulated using consumer protection and general corporate conduct laws.

## 1. What laws address the transparency of green claims?

The **Australian Competition and Consumer Commission (ACCC)** is responsible for regulating greenwashing under the general laws relating to advertising practices as set out in the **Competition and Consumer Act 2010 (CCA)** which prohibits misleading or deceptive conduct, or conduct likely to mislead or deceive, in trade or commerce. Key provisions include the prohibitions on misleading and deceptive conduct or representations, including where it is likely to mislead the public about the nature, manufacturing, characteristics, suitability or quantity of goods or services.

If greenwashing conduct is occurring in the financial services sector, the regulator is the **Australian Securities and Investments Commission (ASIC)** and it is regulated by the **Corporations Act 2001**.

ACCC and ASIC may seek a range of orders from the court against companies accused of greenwashing (regardless of any loss or damage having been suffered), including declarations, injunctions, corrective disclosure outcomes, undertakings, financial penalties and adverse publicity orders. Directors may also be subject to accessorial liability. Private actions for damages resulting from greenwashing may also be brought under the CCA.

## 2. Is 'greenwashing' defined in legislation?

There is no law or regulation that specifically defines greenwashing in Australia. However, **ACCC refers to greenwashing as "false or misleading environmental claims" and according to ASIC "Greenwashing is the practice of misrepresenting the extent to which a financial product or investment strategy is environmentally friendly, sustainable or ethical."**

## 3. Key stakeholders

Both **ACCC and the ASIC** have greenwashing as an enforcement priority. **Australian NGOs** are very sensitive to the issue of greenwashing too. The **Environmental Defender's Office (EDO)** funds public interest litigation and in 2023 they acted on behalf of private sector clients, other NGOs and regulators to bring actions for greenwashing claims. Other NGOs that commenced legal

action for greenwashing in the past year include **Australian Parents for Climate Action and the Australian Conservation Foundation**. Proxy advisers often respond to clients who are sensitive to greenwashing and are increasingly advising against shareholder resolutions that may be characterised as greenwashing.

## 4. Focus on financial services

**The Australian Government is pursuing a Sustainable Finance Strategy** that will include a sustainable finance taxonomy which is expected to minimise greenwashing risk, and a climate-related disclosure regime which will implement ISSB S2. From 1 January 2025, it will become mandatory for large Australian companies to outline climate-related risks in their financial disclosures, with smaller businesses to follow. The reforms, are expected to improve the quality of climate related disclosures and minimise greenwashing conduct. The proposed disclosure regime includes a three-year moratorium on third party litigation to allow companies to adjust, during which time only ASIC can take action against a company for greenwashing arising from its reporting under the new regime.

**ASIC is a member of the International Organisation of Securities Commissions (IOSCO)**, a global body that brings together the world's securities regulators, and engages with

# Australia



the forum on sustainable finance. **In 2023 ASIC co-chaired an IOSCO task force that reported on collaboration around greenwashing and fraud conduct**, which will inform its strategic priorities on retail investor harms.

## 5. Recent cases

Since 1 July 2022, **ASIC** achieved 23 corrective disclosure outcomes, issued 13 infringement notices, and commenced 1 civil penalty proceeding against a financial services firm for greenwashing conduct, in addition to 2 ongoing civil penalty proceedings against financial services providers.

Since 2005, the **ACCC** has commenced nine formal court proceedings related to greenwashing, accepted 11 court-enforceable undertakings, issued infringement notices with penalties in two cases, and encouraged companies to voluntarily address greenwashing concerns in four cases. With a new focus on prosecuting only serious misconduct, the ACCC

did not commence any formal court proceedings for greenwashing conduct last year. In 2023, the ACCC commenced a greenwashing internet sweep and accepted one court-enforceable undertaking for greenwashing following an investigation. Notable cases include:

a 2023 complaint to the ACCC by a grassroots environmental movement about a trade body's 'future of gas' campaign that promoted fossil gas as essential to the net zero transition as being a false and misleading sustainability claim;

- a 2023 complaint to the ACCC by environmental campaigners about environmental claims, including net zero ambitions, made by a car manufacturer;
- a 2022 challenge to a mining company regarding the lack of evidence to underpin its decarbonisation plan claims;
- a 2023 challenge to the credibility and reliability of a climate certification

program;

- a 2023 lawsuit filed against an energy company's carbon neutral claims in the context of reliance upon carbon credits to offset emissions;
- a 2024 ruling in favour of ASIC against greenwashing by a global investment management company in the marketing of its funds, seen against the activities actually financed; and
- 2023 proceedings brought by ASIC against greenwashing by a superannuation provider.

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# Malaysia



There are no specific anti-greenwashing laws in Malaysia. Instead, it is mainly regulated using consumer protection laws.

## 1. What laws address the transparency of green claims?

**Section 10 of the Consumer Protection Act 1999 prohibits making false or misleading representations**

regarding aspects of goods or services. Additionally, **Section 18 establishes the presumption of liability for advertisers and/ or the person on whose behalf the advertisement is made unless evidence of the contrary is provided.** In relation to greenwashing, the act underscores the importance of accuracy in marketing claims related to environmental aspects of products or services.

Greenwashing may potentially be caught under the Contracts Act 1950 as misrepresentation if the elements for misrepresentation can be fulfilled. To be classified as misrepresentation, there must be a greenwashing statement that has induced the buyer to enter into the relevant contract.

## 2. Is 'greenwashing' defined in legislation?

There is no specific national law or regulation in Malaysia that defines greenwashing.

## 3. Key stakeholders

In Malaysia attitudes towards greenwashing vary among different stakeholders, influencing their levels of sensitivity. Notably **the financial sector exhibit particular sensitivity, as evidenced by the establishment of the Joint Committee on Climate Change in 2021. Financial sector regulators have also published various climate change policy documents which provide guidance to financial institutions on mitigating greenwashing risks.**

**NGOs have also demonstrated significant sensitivity to the issue of greenwashing.** They had a critical response to the awarding of a 'low carbon' city designation to the Penang South Islands project. Additionally, The Borneo Project and Bruno Manser Fonds' joint report criticising the certification of a timber company as "sustainable" and providing recommendations to combat the issue further shows NGOs are highly sensitive to the issue of greenwashing.



# Malaysia



## 4. Focus on financial services

The **Advisory Committee on Sustainability under Malaysia's Securities Commission has proposed using of the International Financial Reporting Standards (IFRS)**

Foundation's International Sustainability Standards Board as the basis for mandatory reporting requirements for listed and non-listed large companies in Malaysia.

There is a growing emphasis on promoting sustainability and responsible business practices. **Bursa Malaysia, the Indonesian Stock Exchange (IDX), the Stock Exchange of Thailand (SET) and Singapore Exchange (SGX Group), collectively referred to as the "Participating Exchanges", announced a collaboration on the ASEAN-Interconnected Sustainability Ecosystem (ASEAN-ISE) initiative.**

The initiative aims to advance ASEAN's sustainable development through the implementation of common ESG metrics.

## 5. Recent cases

Litigation cases specifically related to greenwashing in Malaysia are not extensively recorded due to the lack of a centralised database.

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# Singapore



Although there are no specific anti-greenwashing laws in Singapore, specific guidelines on environmental claims have been issued. Local general provisions address greenwashing through legislation prohibiting false advertisements or false representations.

## 1. What laws address the transparency of green claims?

The **Consumer Protection (Fair Trading) Act 2003** prohibits false or misleading communications (including omissions) in relation to a consumer transaction. An affected consumer may bring an action under the CPFTA subject to a claim limit of S\$30,000.

The **Misrepresentation Act 1967**, along with the **Common Law doctrine of misrepresentation**, prohibits innocent, negligent and fraudulent misrepresentations which could capture greenwashing.

The **Singapore Code of Advertising Practice (SCAP)** is an industry guideline that encourages ethical advertising, and has a section dedicated to truthful presentation.

It is enforced by its issuer, the **Advertising Authority of Singapore (ASAS)** who can issue sanctions including informing an advertiser to remove or amend their infringing advertisement, withholding ad space or

time, publicising findings and escalating to the relevant authorities for further investigation.

**Directors of companies owe judiciary duties (under Singapore's Companies Act 1967 and the common law) which includes a duty to act honestly, with reasonable diligence and in the best interest of the company.** Shareholders who are aware of greenwashing may bring derivative actions in the name of the company against the directors.

The **Singapore Green Label Certification**, accredited by the **Global Ecolabelling Network** is a voluntary certification scheme that helps consumers identify environmentally friendly products and services. It sets strict criteria regarding product life cycles. The ecolabel helps consumers make informed choices and reduces the risk of greenwashing.

The **Competition and Consumer Commission of Singapore** is working on creating guidelines targeted at greenwashing and environmental claims, the **Guidelines on Fair**

**and Accurate Green Claims Being Developed.** In the interim, they have developed pointers to aid consumers' understanding of environmental claims.

Additionally, the **Sustainability Reporting Advisory Committee**, convened by the **Accounting and Corporate Regulatory Authority (ACRA)** and the **Singapore Exchange Regulation (SGX RegCo)**, has made recommendations to advance climate reporting in Singapore which has led to a public consultation and could indicate future legislative intentions.

## 2. Is 'greenwashing' defined in legislation?

There is no definition of greenwashing under Singaporean law.

## 3. Key stakeholders

NGOs exhibit varying degrees of sensitivity to the issue of greenwashing. **Local NGOs support the government in developing environmental laws and policy** through appointments on

official committees and consultations. The **Singapore Environment Council (SEC)**, which was granted the UN Environmental Programme accredited environmental NGO status, **conducts sustainability training for business owners and executives** to increase their appreciation of sustainability-related risks. Participants who complete the course will be entitled to a complimentary full sustainability audit of their organisation by the SEC.

Internationally, **Singapore has been collaborating as part of the United Kingdom- Singapore Financial Partnership** to identify compatibilities between the two countries' taxonomies and metrics for green and transitional activities. **Singapore is also a member of the UN and was one of the first countries to ratify the Paris Agreement.**

## 4. Focus on financial services

Greenwashing is a concern for Singapore's financial sector

# Singapore



regulators and stakeholders.

**Regional efforts on combating greenwashing** chiefly point to the **ASEAN Taxonomy for Sustainable Finance** which is a guide designed to enable a just transition towards sustainable finance adoption by ASEAN member states.

Since 2022, the **Monetary Authority of Singapore (MAS)** has **required banks to conduct stress tests that include climate-related scenarios**.

**Singapore's Securities and Futures Act (SFA)** criminalises **the making of false or misleading statements in inducing the subscription, purchase or sale of securities**. Additionally, the **Listing Rules of the Singapore Exchange** requires listed issuers to issue

**a sustainability report for each financial year.**

The **Singapore-Asia Taxonomy for Sustainable Finance** was launched in December 2023 by MAS. It sets out thresholds and criteria for defining green and transition activities that contribute to climate change mitigation across 8 sectors (energy, real estate, transportation, agriculture and forestry, industrial, information and communication technology, waste/circular economy and carbon capture and sequestration). Crucially, this is the first taxonomy globally to pioneer the concept of a "transition" category. While not legally binding, the point of reference should reduce the susceptibility of participants to greenwashing.

## 5. Recent cases

There have been **no recorded litigation cases** specifically related to greenwashing in Singapore. However, **ASAS has previously challenged a local company's marketing claims**. They requested the company remove an advertisement with an environmental claim in breach of the SCAP guidelines from their Instagram page.

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# Indonesia



There are no specific anti-greenwashing laws in Indonesia. Instead it is currently regulated using consumer protection laws that prohibit “false advertisements” or “false representations”.

## 1. What laws address the transparency of green claims?

The **Consumer Protection Regulations (Law No. 8 of 1999)** prohibits misleading marketing communications or misrepresentation that might influence the consumer. Violations of these provisions may lead to criminal sanctions and fines.

The **Indonesian Criminal Code** penalizes fraud which involves deliberate deception. This could apply to greenwashing.

The **Regulation on Environmental Protection and Management (Law No. 32 of 2009)** prohibits causing environmental damage through deception. It mandates environmental impact assessments for activities with a significant environmental impact and requires businesses to align with findings to prevent misleading claims.

Additionally, the regulation grants citizens access to environmental information to hold companies accountable.

The **Indonesian Ecolabel** is a certification scheme that helps consumers identify environmentally friendly products and services. **Regulation No. 2 of 2014** outlines the requirements and procedures for displaying the Indonesian Ecolabel logo on products. The Ecolabel helps consumers make informed choices and reduces the risk of greenwashing.

## 2. Is ‘greenwashing’ defined in legislation?

There is no specific national law or regulation in Indonesia that defines greenwashing.

**Regional collaborations such as the ASEAN Green Finance Working Group are working towards clearer definitions of “green” projects.**

## 3. Key stakeholders

The awareness of different stakeholders in the Indonesian market is increasing. The highest sensitivity is among NGOs. Environmental NGOs such as WALHI (Wahana Lingkungan Hidup Indonesia) are actively campaigning for stricter regulations. Regional collaborations between other NGOs (e.g. Setara Coalition, ASEAN Cooperation on Environment Programme (ACOP) and Greenpeace Asia) are bringing greenwashing issues up regularly and demanding environmental actions. Other key stakeholders include institutional investors and proxy advisors such as Sustainalytics and ISS ESG who are increasingly considering ESG factors in their advice to clients.

## 4. Focus on financial services

The **Financial Services Authority (OJK)** is another key stakeholder in Indonesia. The OJK has regulations on sustainability reporting for financial institutions which encourages transparency and helps to identify the companies making misleading claims.

The OJK is **developing a green taxonomy** and sustainability reporting requirements for financial institutions to mitigate greenwashing risks. **It is also debating the inclusion of coal-fired power plants in its green taxonomy.**

Additionally, there are **ongoing proposals to improve the effectiveness of sustainability reporting for listed companies**, which could make it harder for them to make misleading green claims, given the increasing awareness of both NGOs and media outlets.

# Indonesia



The ASEAN Green Finance Working Group aims to develop regional standards for green finance, including guidelines for green bonds and sustainable investing.

## 5. Recent cases

Greenwashing has appeared notably in the **pulp and paper; consumer goods; and energy sectors**, including through NGOs challenging greenwashing through reports and investigations:

In 2021, Greenpeace's "Cartons of Convenience" report linked a pulp and paper producer to deforestation in Sumatra. Greenpeace investigations also documented the clearing of natural forests and endangerment of species; and WALHI accused a bottled water brand of greenwashing through its campaign focused on plastic bottle recycling in 2022. The NGO argued the campaign diverted attention from excessive plastic usage and did not give information on the company's own recycling initiatives.

Greenwashing cases have also been prevalent in the Indonesian media: In 2023, an iced tea brand faced criticism for their campaign which used nature visuals that associated the brand with environmental consciousness.

There has also been lawsuits intervening against environmental claims. Several lawsuit challenging a coal-fired power plants environmental and social impact assessments were filed after the project claimed to utilize "clean coal" technology.

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# Taiwan



There is no specific law or regulation on green claims in Taiwan. However, there are regulations regarding the Information to be Published in the Annual Report of Financial Holding Companies. Greenwashing practices are addressed by general legislation prohibiting false advertisements or false representations.

## 1. What laws address the transparency of green claims?

- **Consumer Protection Act:** The law prohibits the publication or presentation of deceptive, exaggerated or misleading labelling, advertising or marketing of products and/or services provided to consumers. The law allows consumers to claim compensation for damages, which can be up to five times the amount of the actual damages incurred against importer/manufacturers for any products and/or services involving deceptive, exaggerated or misleading labelling, advertising or marketing.
- **Securities and Exchange Act (SEA):** Listed companies are required to include ESG and climate related information as part of their annual report. If an annual report contains deceptive and/or misleading climate information, civil and criminal liabilities under the SEA may be imposed. If an annual report contains deceptive and/or misleading climate information, the issuing company may be subject to penalties.

- **Fair Trade Act (Unfair Competition Law in Taiwan):** The law prohibits the publication or presentation of deceptive, exaggerated or misleading labelling, advertising or marketing material which may cause unfair competition in the market.

From the competition law perspective, if a company engages in publishing or presenting defective, exaggerated, or misleading labelling, advertising, or marketing material that may result in **unfair competition in the market**, it can be subject to civil damages and punitive measures. If a company is found guilty, it may face civil damages of up to three times the number of actual damages caused.

The company could be subject to an administrative fine of up to NT\$50,000,000. These penalties are imposed until the company ceases its violating acts, rectifies its conduct, or takes necessary corrective action.

## 2. Is 'greenwashing' defined in legislation?

There is no definition of greenwashing under Taiwan law.

## 3. Key stakeholders

The main bodies responsible for overseeing and enforcing greenwashing regulations in Taiwan are the **Consumer Protection Committee (CPC)** (responsible for oversight and enforcement of penalties related to consumer protection laws); the **Fair-Trade Commission (FTC)** (enforces penalties related to deceptive marketing practices that impact fair competition in the market); and the **Financial Supervisory Commission (FSC)** (the primary regulatory body overseeing various aspects of the financial sector, including securities, insurance, banking, and corporate governance). All supervisory authorities work together to ensure compliance with relevant laws and regulations, protecting investors and consumers from misleading information.

Awareness among various stakeholders, including financial sector regulators in the Taiwanese market, is growing. Taiwan's **Environmental Protection Administration (EPA)** has cautioned local businesses against

"greenwashing" and urged them to accurately monitor emissions and implement third-party monitoring systems. This is particularly in response to the adoption of the **Climate Change Response Act (CCRA)** in February 2023. The CCRA encourages companies to engage in voluntary carbon reduction projects and acquire carbon reduction credits that can be potentially traded.

# Taiwan



## 4. Focus on financial services

**Greenwashing prohibition in the financial sector is governed by the SEA**, which prohibits false or misleading statements in the annual reports regarding climate information.

- **Regulations Governing Information to be Published in the Annual Report of the Financial Holding Companies:** requires regulated financial entities (e.g., banks, insurance companies, securities firms and other regulated financial institutions) to disclose certain climate related information in their annual reports. The FSC is currently discussing a revised draft of the regulation which aims to require financial sectors to disclose carbon footprint assessment and quality assurance information in their annual report.

- **Roadmap for Taiwan listed companies to align with the IFRS (Sustainability Disclosure Standards):** the FSC announced the roadmap on August 17th, 2023, proposing an amendment to the companies. If adopted, listed companies will be required to disclose sustainability information in accordance with IFRS Sustainability Disclosure Standards in their annual reports, and to publish sustainability information at the same time as the financial statements.

## 5. Recent cases

Litigation cases specifically related to greenwashing in Taiwan are not extensively recorded due to the lack of a centralised database.

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# Thailand



There are no specific anti-greenwashing laws in Thailand. Instead, it is mainly regulated using consumer protection laws.

## 1. What laws address the transparency of green claims?

Regulations addressing greenwashing are covered by the **Consumer Protection Act 2522 BE**. This act prohibits false or misleading representations about goods or services. Companies accused of greenwashing under this law may face penalties, including imprisonment for up to six months, a fine of up to one hundred thousand Thai Baht, or both.

New regulatory frameworks are being developed to address the issue.

**Greenwashing regulations are currently in their initial phase, focusing on developing a framework and taxonomy for ESG considerations, with a particular emphasis on the energy and transportation sectors.**

This framework and taxonomy will serve as the foundation for establishing comprehensive regulations. The implementation of these regulations is expected to follow the completion of the framework and taxonomy development.

**Until greenwashing regulations are established, businesses are**

**encouraged to participate in voluntary standards such as environmental labels to affix on their products.** For example, the Thailand Greenhouse Gas Management Organization offers Thai Green Labels and Carbon Footprint labels.

## 2. Is 'greenwashing' defined in legislation?

There is no specific national law or regulation in Thailand that defines greenwashing.

## 3. Key stakeholders

Greenwashing has garnered significant attention in the Thai market, raising concerns among various stakeholders. In the absence of official greenwashing regulations, the **Securities Exchange Commission (SEC) of Thailand and the Bank of Thailand have emerged as the most active regulators.** They have taken substantial steps to address the issue, including establishing dedicated ESG task forces, reflecting the growing concern over greenwashing in Thailand.

**Investors in Thailand are increasingly concerned** about greenwashing, recognizing the financial risks associated with misleading ESG claims. This heightened awareness has driven a growing demand for greater transparency and accountability from companies regarding their ESG performance.





# Thailand



## 4. Focus on financial services

The framework and taxonomy currently under development aim to establish clear criteria for ESG considerations within each sector. In the energy sector, for example, criteria will include the classification of energy sources and annual carbon emissions. This sector-specific approach ensures that ESG considerations are tailored to the unique characteristics and challenges of each industry.

A notable **regional initiative to combat greenwashing is the ASEAN Taxonomy for Sustainable Finance**. This taxonomy provides a common framework for classifying sustainable economic activities across ASEAN member states. By establishing a shared understanding of sustainable investments,

the taxonomy aims to prevent greenwashing and promote greater transparency and accountability in the region.

## 5. Recent cases

The energy sector in Thailand has faced scrutiny over greenwashing, particularly concerning carbon credits. Questions about the validity and effectiveness of carbon offset projects have highlighted the potential for greenwashing in this area.

However, comprehensive data on greenwashing litigation in Thailand is limited due to the lack of a centralized database.

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# Brazil



There are no specific anti-greenwashing laws in Brazil. Instead it is currently regulated using consumer protection and advertising laws.

## 1. What laws address the transparency of green claims?

In 2013, to address the absence of specific legislation governing deceptive advertising practices like greenwashing the **Federal Supreme Court (STF) ruled that the existing Brazilian Consumer Protection Code adequately covers regulations concerning commercial advertising, including those pertaining to environmental claims.** The Consumer Protection Code prohibits deceptive advertising, encompassing false or misleading information and the omission of vital details, such as greenwashing tactics. It mandates that green claims adhere to principles of transparency and truthfulness outlined in the code.

The **Brazilian Advertising Self-Regulation Council (CONAR) has set guidelines** aimed at combating greenwashing in advertising. These guidelines mandate companies to substantiate their environmental claims and prohibit any false or misleading assertions regarding environmental issues. Additionally,

## CONAR's Brazilian Code of Self-Regulation in Advertising (CBAP)

defines terms like “socioenvironmental advertising” and “cause-related marketing”. If CONAR determines that an advertisement breaches the CBAP, it may impose administrative penalties such as fines or the removal of the offending advertisement.

**Breaches of the Consumer Protection Code can give rise to both administrative and criminal sanctions,** including fines, product confiscation or destruction, cancellation of product registration, prohibition on manufacturing, suspension of supply, temporary closure of activities, revocation of concessions or permits, and imposition of counter-advertising. The Public Prosecutor's Office and consumer defense associations hold the authority to initiate legal proceedings against these companies' seeking compensation for individual and collective damages.

Deceptive advertising and dissemination of misleading information constitute crimes against consumer relations. The

penalties for such crimes may involve imprisonment, detention, and fines. Additionally, greenwashing practices can be deemed unfair competition, where false claims deceive consumers and unfairly disadvantage competitors. In such cases, companies may face penalties for unfair competition, alongside potential civil liability under the Brazilian Industrial Property Law.

**Companies may face administrative sanctions under Brazilian National Environmental Policy,** such as fines, loss of tax incentives, and suspension of financing participation. They may also have to remedy environmental damage, facing civil and criminal actions under Brazilian law, including the Environmental Crimes Law. Bill 2838/22, currently in its early stages, seeks to create a national classification of economic activities based on their social, environmental, and climate impacts. The bill aims to deter greenwashing by discouraging the deceptive use of environmental claims without genuine commitment to sustainability practices.

## 2. Is 'greenwashing' defined in legislation?

There is no specific law or regulation that specifically defines greenwashing in Brazil.

## 3. Key stakeholders

ESG issues are currently a hot topic in Brazil, and it is expected that greenwashing will become increasingly sensitive for different stakeholders. Self-regulation entities diligently monitor and enforce greenwashing regulations within their areas of expertise. Nevertheless, both individuals and authorities, including federal or state prosecutor's offices, retain the right to pursue individual or collective claims concerning greenwashing, ensuring comprehensive oversight and accountability.

# Brazil



## 4. Focus on financial services

The **Brazilian Securities and Exchange Commission (CVM) and the Central Bank of Brazil (BCB), are addressing ESG issues in financial and capital markets.** CVM, responsible for overseeing the stock exchange market, emphasizes full disclosure principles to ensure market equity.

**Resolution No. 59/2021 requires Brazilian listed companies to disclose specific ESG aspects in their reports,** employing a “comply or explain” approach, even if ESG practices are absent. ANBIMA, a leading self-regulatory body, mandates suffixes for investment funds with 100% sustainable assets, encouraging transparency.

**Resolution No. 4,945/2021 establishes requirements for financial institutions’** Social, Environmental, and Climate Responsibility Policy, which is overseen by the BCB. Since 2008, the BCB and CMN have set guidelines for credit granting by financial institutions, including specific regulations for rural credit.

## CVM’s Resolution 193 adopts directives from the International Sustainability Standards Board.

Starting in 2024, Brazilian organizations can voluntarily comply with these standards, with mandatory compliance by 2026. An ongoing initiative aims to create a Brazilian sustainability taxonomy, streamlining the detection of greenwashing and setting benchmarks for ESG products. In the capital and financial markets, false or misleading information disclosure is a serious offense. Non-compliance with regulations can result in sanctions like warnings, fines, temporary disqualification, or suspension of authorization.

## 5. Recent cases

Notable greenwashing cases in Brazil include:

- a legal challenge by local communities against a large eucalyptus pulp producer alleging a gap between perceived sustainability and actual practices, including deforestation; and
- Climate litigation brought against a bank alleging greenwashing in relation to its failure to adequately address climate change in its investment activities.

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# Canada



Greenwashing practices are addressed by general legislation relating to products and consumer protection which have previously prohibited false advertisements or false representations.

Amendments and new legislation have been proposed and passed into law to specifically target environmental and social claims relating to products, as well as broader corporate environmental claims (e.g., carbon neutral and net zero claims).

## 1. What laws address the transparency of green claims?

The **Canadian Competition Act** sets out general prohibitions which cover deceptive or deceptive marketing practices by companies which could be characterized as greenwashing. Passed into Law on June 20, 2024, **Bill C-59** has added specific provisions to to the **Canadian Competition Act** to address greenwashing, aiming to enhance the accountability of businesses making environmental and social claims. The **key provisions relating to greenwashing** include:

- **Social Claims (Products):** following review and discussions by the Standing Committee of Finance, the wording of the Bill was expanded to prohibit product benefit claims of the “social” variety (e.g., Indigenous Reconciliation; diversity, equity and inclusion; responsible supply chain (i.e., modern slavery), unless such claims are substantiated based on an “adequate and proper test”.

- **Environmental Claims (Products):** anti-greenwashing provisions prohibiting claims about the environmental benefits of specific products (e.g., low carbon fuels), unless such claims are substantiated based on an “adequate and proper test”.

- **Environmental Claims (Business Promotion):** broadens the scope of potential greenwashing offences to also include environmental claims made about a business or business activity “for the purpose of promoting, directly or indirectly, any business interest” (e.g., carbon neutral or net-zero claims) unless such claims have adequate and proper substantiation in accordance with an “internationally recognized methodology.”

Bill C-59 has also added a private right of action (an action advanced by a person instead of the Commissioner of the Competition Bureau). When a private complaint is received, the Competition Tribunal will determine whether the action will proceed if it is determined to be “in the public interest”.

Companies found to be making false or misleading claims may face significant administrative monetary penalties that are the greater than (i) \$10 million (or \$15 million for repeat conduct), and (ii) three times the value of the benefit derived from the deceptive conduct, or if the amount cannot be reasonably determined, 3% of worldwide gross revenues.

The Fossil Fuel Advertising Act (Bill C-372), prohibiting the promotion of fossil fuels with limited exception, is a private member’s bill before parliament (and not yet passed). The bill seeks to prohibit the promotion of fossil fuels in Canada unless authorized by the Act and is similar to prohibitions on tobacco advertising.

Starting June 20, 2025, private parties will have the right to seek leave (permission) from the Competition Tribunal to bring an action against companies for greenwashing. Actions will be granted permission to proceed if deemed to be in the public interest.

## 2. Is ‘greenwashing’ defined in legislation?

There is currently no specific law or regulation that specifically defines greenwashing in Canada.

## 3. Key stakeholders

Many stakeholders in Canada are sensitive to the issue of greenwashing. Several **greenwashing complaints have been filed with the Competition Bureau**, and lawsuits have been initiated against companies. **The Competition Bureau has also recently announced an online mechanism for members of the public to file a complaint of greenwashing which the Bureau will review to determine if an investigation or inquiry should be initiated.**

# Canada



## 4. Focus on financial services

Bill S-243, known as the **Climate-Aligned Finance Act**, aims to align the activities of Canada's financial sector with Canada's federal climate commitments.

Introduced by Senator Rosa Galvez, the bill, which has not yet passed, mandates that that federally regulated financial institutions and Crown corporations develop action plans and targets to address climate risks. Key provisions relating to greenwashing include an obligation on financial institutions to, as soon as possible, create plans and targets to meet climate targets and integrate climate considerations into their operations. Notably these plans:

- must prioritize and encourage immediate and ambitious action;
- must include reductions within the institutions' value chain and targets for absolute emission reduction at the sectoral and portfolio level and for individual investment holdings across all classes of debt and equity;
- cannot rely on carbon offsets as a replacement for emissions reduction unless maximum feasible absolute emission mitigation has already occurred,

and the offsets are produced through proven emission removal methods and the offsets are strictly necessary to neutralize emissions that cannot be abated with currently available technology; and

- cannot rely on future invention, discovery, or large-scale technology development beyond the remit of the entity's activities (e.g., any emissions removal, capture or storage technology, tool or technique that claims or promises emissions reductions for the purpose of justifying continued use or increased fossil fuel activities) (e.g., carbon capture, utilization, and storage).

## 5. Recent cases

The **Competition Bureau has initiated several investigations** into various businesses due to false or misleading marketing practices. These investigations have targeted sectors such as fossil fuel and textile, focusing on alleged greenwashing claims. Additionally, there have been numerous proceedings before the Competition Tribunal and private lawsuits filed against companies for similar alleged greenwashing activities.

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# Colombia



Although there are no specific anti-greenwashing laws in Colombia, specific guidelines on environmental claims have been issued. Local general provisions address greenwashing through legislation prohibiting false advertisements or false representations.

## 1. What laws address the transparency of green claims?

**Bill No. 101 of 2023** has been presented before the congress and it **proposes concrete measures to ensure that businesses promoting sustainability do so transparently and truthfully. Through this bill, “greenwashing” would be included in the consumer protection laws (specifically law 1480 of 2011 – consumer protection statute).** Key provisions include the obligation to provide complete, truthful, verifiable, understandable, and accurate information about their environmental practices, and this information must be available and updated on their websites. One of the most important restrictions applies to advertising projects that are undergoing environmental evaluation. Those responsible for conducting environmental impact studies or statements will not be allowed to make public claims related to the project or activity under evaluation unless required to do so. Furthermore, terms like “recyclable,” “compostable,” or “reusable” will only apply to products that effectively meet these conditions.

## **Bill No. 101 of 2023 empowers the Superintendency of Industry and Commerce (SIC), in collaboration with the Ministry of Environment and Sustainable Development, to determine specific penalties.**

These sanctions and convictions will be made public through Colombia’s Environmental Information System, enhancing transparency. Noteworthy within the bill is a provision barring individuals sanctioned for environmental offenses from promoting sustainability for a period of five years following the finalization and enforcement of the sanction or conviction, along with full compensation for any environmental harm caused. Violations involving greenwashing or deceptive advertising could incur fines of up to approximately USD \$657,000, enforced by the SIC.

**Law 256 of 1996 prohibits acts of unfair competition, including those that mislead the public.** This includes identifying and addressing deceptive practices where companies mislead consumers about the environmental benefits of their products or services. Through rigorous analysis of advertising

materials and product claims, enforcement actions can be taken against companies engaging in greenwashing, potentially resulting in fines, injunctions, or corrective measures.

**The National Agency for Advertisement Self-Regulation operates without legislative authority, functioning as a voluntary entity driven by private initiative.** Despite lacking legal enforcement capabilities, **the Agency has issued the Colombian Code for Advertisement Self-Regulation,** applicable to all advertisements in Colombia. In terms of green claims, the Code mandates that advertisements explicitly outline their contributions to environmental improvement and national development. It mandates truthfulness regarding environmental impacts, characteristics, and benefits of advertised products, with an emphasis on promoting environmentally responsible behaviours whenever feasible.

**Decree No. 1369,** issued in 2014, **established requirements for environmental advertising and green marketing claims.**

The decree sets forth a series of requirements that extend to any advertising that makes reference to a product’s positive environmental characteristics or positive impact.

**Bill No. 15 of 2022 is currently before the Congress of the Republic, and its objective is to regulate labelling, advertising and any other form of marketing that is related to environmental attributes of a product.** This proposed legislation is in its initial stage of the legislative process and is subject to potential significant alterations in subsequent stages. It encompasses various provisions outlining specific requirements for environmental and green assertions in advertising, encompassing technical specifications, labelling mandates, and criteria-based obligations applicable to all advertisers. **The bill aims to build upon the regulatory framework established by Decree No. 1369 of 2014.**

# Colombia



## 2. Is 'greenwashing' defined in legislation?

There is no law or regulation that expressly defines greenwashing in Colombia.

## 3. Key stakeholders

As greenwashing is a relatively new concept in Colombian legislation, awareness is gradually increasing among various stakeholders. **The SIC and the Superintendence of Finance are the primary authorities focusing on regulating this issue.**

## 4. Focus on financial services

**Decree No. 151 of 2021 modifies Decree 2555 of 2010 to enhance transparency and disclosure practices by securities issuers.** The decree **mandates issuers to truthfully disclose information, including ESG criteria**, in a clear way for both investors and the market. **Issuers must submit periodic reports to the Superintendence of Finance**, detailing ESG practices and indicators. By enforcing these regulations, Decree 151 aims to prevent greenwashing, promote market integrity, and protect investors' interests through accurate ESG-related information.

## 5. Recent cases

Litigation cases specifically related to greenwashing in Colombia are not extensively recorded due to the lack of a centralised database.

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# Chile



There are no specific anti-greenwashing laws in Chile. Greenwashing is regulated by general laws on consumer protection and advertising which cover deceptive or misleading practices.

## 1. What laws address the transparency of green claims?

Both the Consumer Protection Law and Unfair Competition Law may be used to sanction greenwashing in the form of misleading advertisements.

Also, the Penal Code, the Economic Crime Law and the Criminal Responsibility of Corporation Law may treat greenwashing as a type of fraud in connection with the characteristics of a product.

Law No. 21,455 “Climate Change Framework Law,” enacted in 2022, aims to tackle the challenges posed by climate change, aligning with Chile’s commitments to achieve greenhouse gas emissions neutrality by 2050. It is considered the primary ESG regulation in Chile. It encourages stakeholders such as directors and compliance officers to interpret and apply the provisions of the Framework Law through an ESG lens, thereby

contributing to the mitigation of greenwashing practices in Chile.

There is a **bill under discussion in the House of Representatives that aims to address greenwashing by enforcing stringent regulations on companies that promote sustainability in their products or services.** The primary objective of this bill is to ensure that such companies provide complete, truthful, verifiable, and accurate information in their advertisements. If they fail to do so, they will be penalised.

The bill aims to prevent companies from misleadingly promoting their activities as sustainable just because they comply with existing legal and regulatory requirements or engage in actions mandated by environmental laws, such as mitigation, repair, compensation, or voluntary commitments outlined in Law 19,300 (General Bases of the Environment).

## 2. Is ‘greenwashing’ defined in legislation?

There is no specific law or regulation that defines greenwashing practices in Chile. **The ACAFI established a common understanding of the meaning of the term in the Sustainable Investment Guide.**

## 3. Key stakeholders

Several NGOs have shown a keen sensitivity to greenwashing concerns. For instance, **Fundación Basura** actively advocates for the bid and its initiatives. Moreover, both **the National Consumer Service and the Environment Ministry exhibit a strong awareness and sensitivity towards addressing greenwashing practices.**



# Chile

## 4. Focus on financial services

Chile regulates greenwashing practices within the Financial Sector through the **General Rule No. 461**, published by the Financial Market Commission (CMF). The **rule introduces information requirements regarding sustainability and corporate governance in the Annual Reports of entities that are supervised by the CMF**. These entities include banks, insurance companies, issuers of publicly offered securities, general fund managers, and stock exchanges. The CMF has ensured that securities issuers must comply with the disclosure standards outlined by the Sustainability Accounting Standards Board (SASB Standards).

The Chilean Association of Investment Fund Administrators (private association called ACAFI) issued a **Sustainable Investment Guide that established a common understanding of**

**greenwashing** as the promotion of sustainable or environmentally friendly attributes of a company or product, but without really being consistent with its practices. It is not mandatory, but it is a clear standard in the investment fund industry.

**Key provisions of the Climate Change Framework Law include amendments to existing legislation**, such as incorporating a new paragraph into Article 10 of Law 18.045 concerning the Securities Market. This amendment mandates entities registered in the Securities Registry to disclose information pertaining to environmental and climate change impacts, including the identification, evaluation, and management of associated risks. Similar requirements are imposed through the incorporation of new subsections in other relevant laws, such as Law 20,712 on the Administration of Third-Party Funds and Individual Portfolios.

## 5. Recent cases

Litigation cases specifically related to greenwashing in Chile are not extensively recorded due to the lack of a centralised database.

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# Mexico



Although there are no specific anti-greenwashing laws in Mexico, specific guidelines on environmental claims have been issued. Local general provisions address greenwashing through legislation prohibiting false advertisements or false representations.

## 1. What laws address the transparency of green claims?

The existing **Mexican regulation sets out general conduct prohibitions which cover deceptive or misleading practices** by companies which could be characterised as greenwashing conduct. Greenwashing is regulated by alternative means of consumer protection granted by general law.

The Mexican government **prohibits misleading advertising in different sectors through general provisions covered by civil law and consumer protections regulations** that set out general prohibitions which cover deceptive conducts that can be understood as greenwashing.

Mexico's Ministry of Finance **presented Mexico's Sustainable Taxonomy** on March 2023. This serves as an instrument that **identifies and classifies economic activities that have a positive effect on the environment**

**and society** by employing a specific methodology based on technical criteria and international standards. This taxonomy helps prevent greenwashing and provides investors with better information to direct financing and capital flows towards sustainable activities.

**The Official Mexican Standards (NOM)**, prepared by the federal government agencies, establish the technical and quality requirements products and services must meet in Mexico. **NOMs related to ecological and sustainable products establish the criteria and requirements these products must meet to be labelled as such.** Meeting NOM standards requires significant investment in technology and sustainable practices, reflecting a positive trend towards responsible consumption in Mexico. However, the effectiveness of these standards relies on government enforcement and consumer education.

**Companies can mitigate the risk of greenwashing by adhering to self-regulatory frameworks like the Distinctive ESR (Socially Responsible Company).** This involves a self-assessment process evaluating performance in four areas: company quality of life, business ethics, community involvement, and environmental care. Companies complete an online questionnaire and provide documentation, demonstrating their commitment to social responsibility without external audits. Achieving the ESR Distinctive requires a public commitment to socially responsible practices, and the final evaluation is conducted by the Mexican Centre for Philanthropy (CEMEFI). In 2023, 2,349 companies received the ESR Distinctive for meeting the standards.

Moreover, there are certain **initiatives** such as the **draft Law for the Regulation and Certification of Ecological and Sustainable Products.**

## 2. Is 'greenwashing' defined in legislation?

There is no specific law or regulation that specifically defines greenwashing practices in Mexico.

# Mexico



### 3. Key stakeholders

Mexico is gradually moving towards **stricter standards for sustainable products and greater awareness of ESG issues**, particularly in the financial sector (Mexico's Treasury, financial institutions including banks, etc.).

### 4. Focus on the financial sector

In Mexico, there are ongoing **developments within the financial sector**. These advancements include the **adoption of voluntary practices such as thematic bonds (green, social, blue), green loans**, and the integration of sustainability-linked Key Performance Indicators (KPIs) in loans. These initiatives underscore a growing commitment towards sustainable finance solutions, signalling a shift towards higher standards across diverse sectors of the economy.

### 5. Recent cases

There have been **greenwashing cases in the energy sector**.

In July 2023, environmental NGOs filed two lawsuits against Mexico's Energy Regulatory Commission (CRE). Greenpeace Mexico, Nuestros Derechos al Futuro y Medio Ambiente Sano, and Centro Mexicano de Derecho Ambiental challenged resolutions that classify fossil gas-fired power plants as "clean energy." They argue this misclassification violates the right to a healthy environment by promoting fossil fuels as clean energy, potentially inflating Mexico's clean energy statistics without reducing emissions. The lawsuits claim these resolutions hinder the transition to renewable energy and perpetuate reliance on fossil fuels, constituting greenwashing by the CRE.

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# United States



Although there are no specific anti-greenwashing laws in the United States, specific guidelines on environmental claims have been issued. Local general provisions address greenwashing through legislation prohibiting false advertisements or false representations.

## 1. What laws address the transparency of green claims?

**Section 5 of the Federal Trade Commission Act (FTC Act) targets “unfair methods of competition” and “unfair or deceptive acts or practices in or affecting commerce”.**

This grants the FTC the power to take enforcement actions against businesses found engaging in deceptive or unfair practices, including greenwashing. The FTC uses Section 5 to oversee advertising and marketing practices, ensuring that consumers are protected from false or misleading claims.

In cases of non-compliance with the FTC guidelines, **the FTC has the authority to impose various penalties on companies.**

- The FTC can seek civil penalties in district court for violations that caused harm to consumers.

- The FTC can pursue consumer compensation for trade regulation breaches directly in district court under Section 13(b) of the FTC Act, potentially aiding harmed consumers.
- The FTC seeks injunctions to prevent deceptive practices. Under Section 13(b) of the FTC Act, these injunctions have immediate effect, preventing companies from engaging in fraud or misleading activities, safeguarding consumers.

## US Green Guides

It was **enforced by the US FTC to prevent companies from making environmental claims that could be misleading for consumers.** It offers companies directions based on **recommendations and standards on how to correctly communicate environmental characteristics of their products and services and therefore avoid being accused of greenwashing.**

The **US Green Guides are not legally binding**, meaning that these guidelines do not entail penalties in the event of non-compliance. They serve as a tool to address allegations of unfair marketing practices by requiring evidence to substantiate claims. However, **the FTC has the authority to enforce penalties if deceptive claims violate federal laws regarding consumer deception**, imposing fines of up to \$50,120 per violation.

## 2. Is ‘greenwashing’ defined in legislation?

There is no explicit definition of greenwashing under US law.

## 3. Key stakeholders

Generally, **NGOs, investors and private equity groups are extremely sensitive to the issues of greenwashing.** The biggest deterrent in the current environment is brand reputation risk, which appears to be most impacted by clients/customers, employers and/or shareholders calling out greenwashing behaviour.

# United States



## 4. Focus on financial services

On March 6, 2024, **the U.S. Securities and Exchange Commission (SEC) approved new rules aimed at enhancing and standardizing climate-related disclosures for investors** (SEC Rules to Enhance and Standardize Climate-Related Disclosures for Investors). Under these regulations, U.S. public companies must now provide comprehensive information in their annual reports and registration statements regarding the climate risks they face, their strategies for mitigating these risks, the financial impacts of severe weather events, and, in certain cases, the greenhouse gas emissions produced by their operations.

On September 20, 2023, **the U.S. SEC adopted amendments to the current rule regarding registered**

**fund names**, as well as certain forms and disclosure requirements. The amendments are intended to modernize and enhance investor protections under the Investment Company Act of 1940 (Names Rule) given the important information that fund names can convey to investors and industry developments over the last two decades, including the growth of funds that incorporate ESG criteria into their investment processes. These **amendments broaden the scope of names considered misleading if a fund doesn't invest at least 80% of its assets in line with its name's suggestion.**

## 5. Recent cases

A number of **cases have been brought by climate activists** in the US, some of which are ongoing. **Cases have also been brought by the US government against private companies** for activities including greenwashing; businesses have offered undertakings to remedy the offending behaviour(s).



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