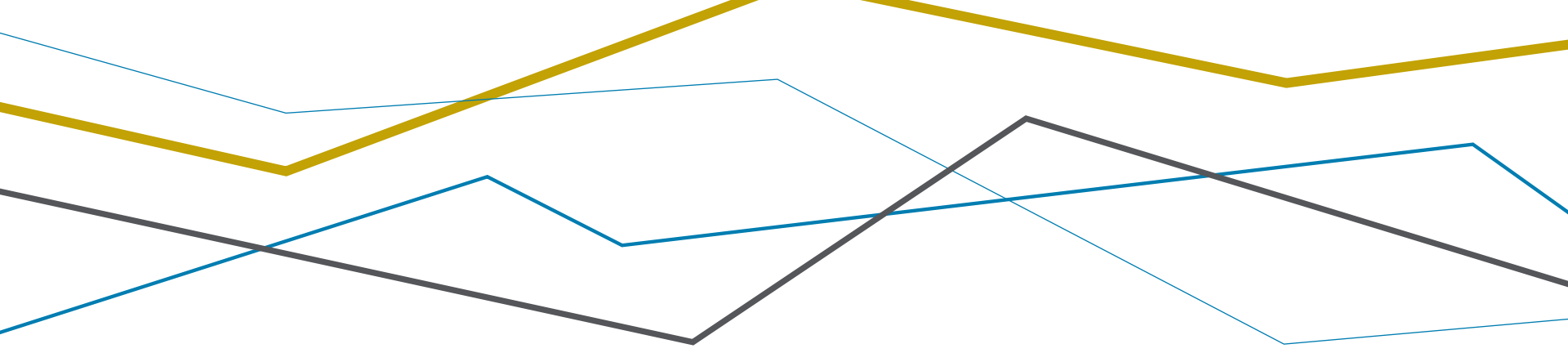




GREENWASHING A REALITY THAT CAN BE AVOIDED

Vienna, 4th April 2023

Mojca Rome

Insurance Supervision Agency of Slovenia

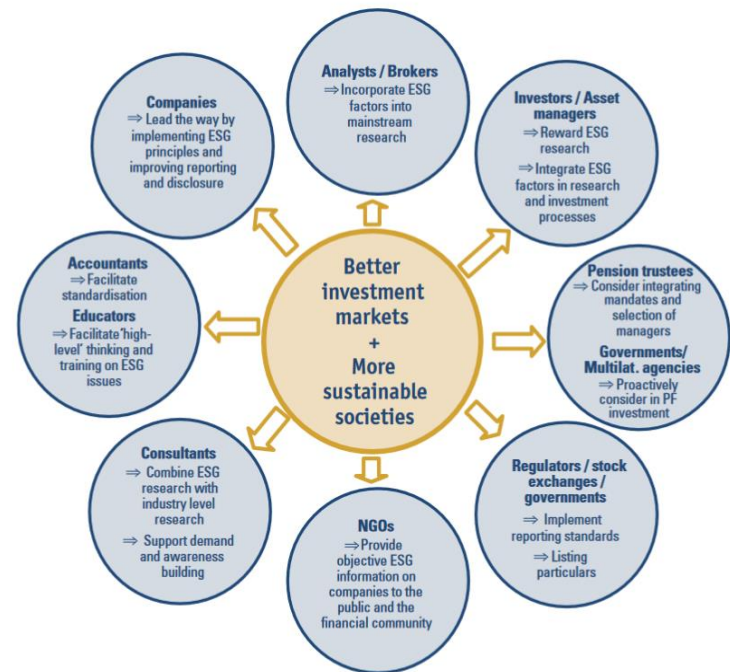
Content

-  Introduction
-  Current legal requirements
-  Impact of greenwashing
-  How to avoid greenwashing
-  Conclusions

Beginning of Sustainability

🌱 2004: United Nations Global Compact „Who Cares Wins“

🌱 2013: Non-Financial Reporting Directive (NFRD)



Introduction to Greenwashing

- 🌿 The demand for and offer of sustainable investments is rocketing
- 🌿 Existing EU policies provide the basis for defining greenwashing and unfair green claims
- 🌿 Greenwashing is a complex and multifaceted issue
- 🌿 Greenwashing can generate reputational and financial risks

(Current) Legal Requirements and Definitions of Greenwashing

European Green Deal Strategy



Taxonomy regulation

The Regulation (EU) 2020/852 (Taxonomy Regulation)⁷ states in its recital 11: *"In the context of this Regulation, **greenwashing** refers to the practice of gaining an unfair competitive advantage by marketing a financial product as environmentally friendly, when in fact basic environmental standards have not been met."*



SFDR Level 2

The Commission Delegated Regulation (EU) 2022/1288 (SFDR Level 2) contains the following:

- In its explanatory memorandum:

*"Disclosure obligations and the assessment of sustainability preferences support the policy objective of reducing the occurrence of **greenwashing**, a form of mis-selling."*

- In its recital 16:

*"It is therefore necessary to address concerns about '**greenwashing**', that is, in particular, the practice of gaining an unfair competitive advantage by recommending a financial product as environmentally friendly or sustainable, when in fact that financial product does not meet basic environmental or other sustainability-related standards."*



Product Oversight and Governance Regulation

*"It is necessary to address concerns about '**greenwashing**', that is, in particular, the practice of gaining an unfair competitive advantage by recommending an insurance-based investment product as environmentally friendly or sustainable, when in fact that insurance-based investment product does not meet basic environmental or other sustainability-related standards. In order to prevent mis-selling and **greenwashing**, insurance intermediaries and insurance undertakings distributing insurance-based investment products should not recommend insurance-based investment products as meeting individual sustainability preferences where those products do not meet those preferences."*



Guidance on the Unfair Commercial Practices Directive

- *"The expressions 'environmental claims' and 'green claims' refer to the practice of suggesting or otherwise creating the impression (in a commercial communication, marketing or advertising) that a good or a service has a positive or no impact on the environment or is less damaging to the environment than competing goods or services. This may be due to its composition, how it has been manufactured, how it can be disposed of and the reduction in energy or pollution expected from its use. When such claims are not true or cannot be verified, this practice is often called '**greenwashing**'."*
- *"**Greenwashing** in the context of business-to-consumer relations can relate to all forms of business-to-consumer commercial practices concerning the environmental attributes of products. According to the circumstances, this can include all types of statements, information, symbols, logos, graphics and brand names, and their interplay with colours, on packaging, labelling, advertising, in all media (including websites) and made by any organisation, if it qualifies as a 'trader' and engages in commercial practices towards consumers."*



ESMA Sustainable Finance Roadmap

Greenwashing is

*"market practices, both intentional and unintentional, whereby the publicly disclosed sustainability profile of an issuer, and the characteristics and / or objectives of a financial instrument or a financial product either by action or omission do not properly reflect the underlying sustainability risks and impacts associated to that issuer, financial instrument or financial product. The **greenwashing phenomenon** could be generally identified as a misrepresentation, mislabeling, mis-selling and / or mis-pricing phenomenon"*



Taxonomy regulation

The Regulation (EU) 2020/852 (Taxonomy Regulation)⁷ states in its recital 11: *“In the context of this Regulation, **greenwashing** refers to the practice of gaining an unfair competitive advantage by marketing a financial product as environmentally friendly, when in fact basic environmental standards have not been met.”*

SFDR Level 2

The Commission Delegated Regulation (EU) 2022/1288 (SFDR Level 2) contains the following:

- In its explanatory memorandum:

*“Disclosure obligations and the assessment of sustainability preferences support the policy objective of reducing the occurrence of **greenwashing**, a form of mis-selling.”*

- In its recital 16:

*“It is therefore necessary to address concerns about ‘**greenwashing**’, that is, in particular, the practice of gaining an unfair competitive advantage by recommending a financial product as environmentally friendly or sustainable, when in fact that financial product does not meet basic environmental or other sustainability-related standards.”*

Product Oversight and Governance Regulation

*“It is necessary to address concerns about ‘**greenwashing**’, that is, in particular, the practice of gaining an unfair competitive advantage by recommending an insurance-based investment product as environmentally friendly or sustainable, when in fact that insurance-based investment product does not meet basic environmental or other sustainability-related standards. In order to prevent mis-selling and **greenwashing**, insurance intermediaries and insurance undertakings distributing insurance-based investment products should not recommend insurance-based investment products as meeting individual sustainability preferences where those products do not meet those preferences.”*

Guidance on the Unfair Commercial Practices Directive

- *“The expressions ‘environmental claims’ and ‘green claims’ refer to the practice of suggesting or otherwise creating the impression (in a commercial communication, marketing or advertising) that a good or a service has a positive or no impact on the environment or is less damaging to the environment than competing goods or services. This may be due to its composition, how it has been manufactured, how it can be disposed of and the reduction in energy or pollution expected from its use. When such claims are not true or cannot be verified, this practice is often called ‘**greenwashing**’.”*
- *“**Greenwashing** in the context of business-to-consumer relations can relate to all forms of business-to-consumer commercial practices concerning the environmental attributes of products. According to the circumstances, this can include all types of statements, information, symbols, logos, graphics and brand names, and their interplay with colours, on packaging, labelling, advertising, in all media (including websites) and made by any organisation, if it qualifies as a ‘trader’ and engages in commercial practices towards consumers.”*

ESMA Sustainable Finance Roadmap

Greenwashing is

*“market practices, both intentional and unintentional, whereby the publicly disclosed sustainability profile of an issuer, and the characteristics and / or objectives of a financial instrument or a financial product either by action or omission do not properly reflect the underlying sustainability risks and impacts associated to that issuer, financial instrument or financial product. **The greenwashing phenomenon could be generally identified as a misrepresentation, mislabeling, mis-selling and / or mis-pricing phenomenon**”.*

Complexity and Lack of Clarity

- 🌿 Currently there is no generally applicable and binding definition of greenwashing available in the EU regulatory framework
- 🌿 Many definitions may lead to divergence understanding of what greenwashing is
- 🌿 The complexity severely impacts consumers' and other market participants' understanding

Intention to Change Legislations

- 🌿 Call for Advice to EBA, EIOPA and ESMA related to greenwashing risks and supervision of sustainable finance policies:
 - 🌿 Scope and definition of greenwashing
 - 🌿 Greenwashing risks
 - 🌿 Supervisory practices and experiences
- 🌿 ESAs published Call for Evidence:
 - 🌿 Features of greenwashing
 - 🌿 ESAs common section and ESA-specific sections
- 🌿 Survey to NCAs

Core Features of Greenwashing – from CfE



Has a misleading component



Can occur at product/service level or at entity level



Can be intentional or unintentional



Can occur at different stages of the product lifecycle or of the investment value chain



Can occur in or out of the current regulatory framework



Can be triggered by the entity or a third party



Undermines trust in sustainable finance markets and policies



Does not necessarily have to cause detriment

Drivers of Greenwashing Risks – from CfE

- 🌱 Growing demand for sustainability-related products,
- 🌱 Rapidly evolving regulatory regimes,
- 🌱 Sustainability-related product offerings
- 🌱 Data availability limitations,
- 🌱 Labelling schemes fragmentations,
- 🌱 Gaps in skills and expertise,
- 🌱 Differing terminologies and interpretations of key concepts, etc.

Possible Greenwashing Practices

- 🌿 **Vague or unsubstantiated claims** about their products' environmental benefits, without providing any evidence to support these claims.
- 🌿 **Cherry-picking data**: using selective data - a company may highlight a particular aspect of its product that is environmentally friendly, while ignoring other aspects that are not.
- 🌿 **Misleading labels**: such as "natural", "organic", or "biodegradable" can be misleading if they are not backed up by specific certifications or standards.
- 🌿 **Irrelevant claims**: about the environmental benefits of products that are irrelevant to the product itself (a claim that a product is "carbon-neutral" even if the product itself has no direct impact on carbon emissions).

Examples in Greenwashing

- 🌱 Auto insurance – no carbon emissions offsetting
- 🌱 Home insurance – „false“ support for renewable energy
- 🌱 Health insurance – „false“ support for sustainable healthcare by reducing waste, promoting healthy lifestyles, and using renewable energy
- 🌱 IBIP – NO or little investment in environmentally friendly or socially responsible projects

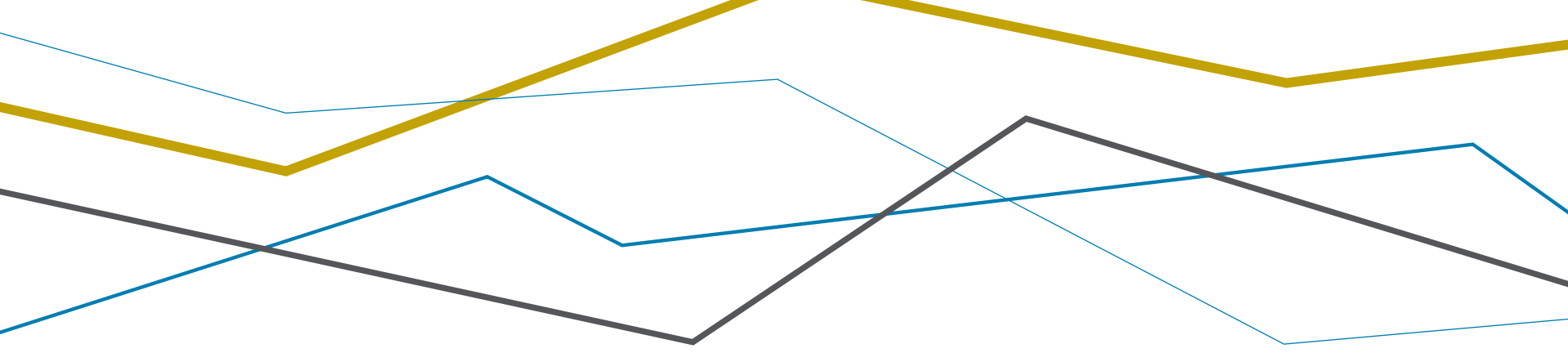
Collective Work for the Green Future

🌱 In order to avoid greenwashing, **all stakeholders should play an active role in the verification of all claims** made by insurance companies, investment firms, banks, rating agencies, auditors, analysts, third party service providers,...

🌱 It is **not an easy task**, but it is achievable with the strong support of all stakeholders!!!!

🌱 Consumers **MUST** be empowered through education and awareness.





**Thank you for your
attention!**

