Financial Services Consumer Panel
AN INDEPENDENT VOICE FOR CONSUMERS OF FINANCIAL SERVICES

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Submitted by email: cp24-8@fca.org.uk

Dear Sir / Madam,

Financial Services Consumer Panel response to FCA extending the Sustainability Disclosure Requirements (SDR) regime to Portfolio Management

The Financial Services Consumer Panel (the Panel) welcomes the opportunity to respond to the FCA's consultation on extending the Sustainability Disclosure Requirements (SDR) regime to portfolio management services. The Panel appreciates the FCA's continuous commitment to sustainability disclosures. The Panel also acknowledges the FCA's efforts to protect consumers and enhance market integrity and transparency.

The Panel request the FCA consider the following:

- Our response in the context of retail investors and in the Panel's vision for how the market should function. The foundation of this vision is implemented and supervised by the Consumer Duty with rules aimed at addressing foreseeable harm to consumers, including harm caused by greenwashing and unsuitable products;
- the UK Government's Treasury Select Committee[1] work on preventing greenwashing in finance and helping consumers understand sustainable investments better;

[1] House of Commons Treasury Committee (2021), Net Zero and the Future of Green Finance

- the Roadmap to Sustainable Investing report[2] ensuring that consumers can access the information they need to make informed capital allocation decisions; and
- the Chancellor's latest remit letter about the Government's ambitions for the provisions of sustainable finance and its net zero emission target.

As demonstrated by the FCA's Financial Lives 2022 survey, there is a significant consumer interest in sustainable products and services with 74% of consumers surveyed considering environmental issues to be important, while 79% agreed that businesses have a wider social responsibility beyond profit-making[3]. It is therefore crucial to ensure consumers can trust the claims made by sustainable investments products in order to drive positive change.

The Panel broadly supports the measures outlined in this consultation to extend the SDR to portfolio management services. The Panel emphasises the importance of all regime components applying to portfolio management activities. In summary, the Panel supports the proposed approach to the following:

- Extension of the regime to portfolio management services and suggests further expansion into overseas funds marketed in the UK, pensions and other investment products. The Panel continues to believe that a broader range of financial products and services will help protect consumers from greenwashing harm.
- Implementation timeline as the Panel believes that it is reasonable and appropriate. While the Panel would have preferred a quicker implementation to boost consumer confidence, they acknowledge the need for firms to adjust their plans. The Panel also notes that the timeline is broadly aligned and consistent with the measures for fund managers.
- Portfolio labelling, including the 70% revised thresholds and assessment requirements. The Panel stresses the need for consumer testing and suggests clear guidelines for addressing shifts in portfolio composition.
- Naming and marketing as this helps consumers receive standardised sustainability information on portfolios they have invested in and/or plan to invest in and it improves consumer's clarity and trust.
- Disclosures for portfolio managers, including the tiered structure. The Panel believes that the proposed approach will improve

[2] HM Treasury (2021), Greening Finance: A Roadmap to Sustainable Investing
[3] FCA, Financial Lives Survey 2022, 26 July 2023, p 43

transparency and comparability. We are however disappointed at the lack of a mandated disclosure template.

- Distributors' responsibilities to ensure accurate communication of labels and disclosures to help retail investors make informed decisions.
- Cost-benefit analysis including the potential benefits for consumers, as it provides stakeholders with a comprehensive understanding of the potential impacts and benefits associated with the proposed regulatory changes. The Panel also supports FCA's intention to monitor and measure the benefits and success post-implementation phase.

The Panel looks forward to future engagement during the post-implementation phase and market evolution.

Please find the Panel responses to the consultation questions posed in Annex A.

Yours sincerely,

Helen Charlton

Chair of the Financial Services Consumer Panel

Annex A – response to consultation questions

Question 1: Do you agree with the proposed scope of our regime? If not, what alternative scope would you prefer and why?
The Panel agrees with the proposed scope of the regime to extend to portfolio management services. The proposal appears to be comprehensive and addresses key aspects related to sustainability in portfolio management activities and services. It also ensures a comprehensive coverage of sustainability-related disclosures to a broader range of financial activities protecting consumers from greenwashing harm.

The Panel is pleased to see the extension of the SDR regime to portfolio management services and would like to see this regime expanded to Overseas Funds marketed in the UK, pensions and other investment products and services.

Although the Panel understands that Overseas Funds are a matter for His Majesty's Treasury (HMT) decision to be included in the SDR regime, the Panel believes that they are important to be considered alongside UK funds and portfolios as they may well be part of a diversified portfolio that retail investors invest in or contemplate investing in.

The Panel agrees with the approach that distributors must place a prominent notice on Overseas Funds, alerting retail investors that the funds are based overseas and not subject to the UK labelling and disclosure requirements.

The Panel agrees with the proposed approach allowing portfolio managers to be able to invest in UK and Overseas assets despite them not having a sustainability label, as long as the assets invested follow the sustainability criteria of the SDR regime that the portfolio manager selected for the portfolio.

Question 2: Do you agree with the proposed implementation timeline? If not, what alternative timeline would you prefer and why?
The Panel would have liked to see the implementation of the regime for portfolio management services as quickly as possible so that consumers can invest in portfolio management services with confidence. Despite that, the Panel recognises that firms need to adjust their plans to implement these changes.

The Panel, therefore, agrees with the timeline proposed as it appears to be reasonable and allows sufficient time for firms to adapt to the new requirements. The Panel also notes that the timeline is aligned and consistent with the measures for fund managers. Crucially, the Panel believes that the timeline affords the necessary lead time for adequate preparation and seamless transition, mitigating potential disruptions to businesses and investors alike. The Panel would not support proposals to delay implementation.

Question 3: Do you agree with our approach to labelling portfolios, including the threshold and assessment requirements? If not, what alternatives do you suggest and why?

The Panel supports the proposed approach to labelling portfolios, inclusive of the prescribed 70% threshold and assessment requirements.

However, in line with our previous consultation response[4], the Panel considers that labelling in portfolio management should be subject to consumer testing, to assess how this impacts consumer decision-making and understanding. The Panel considers that it would be sensible to test consumer comprehension of the meaning of all four proposed labels both before and after they are introduced and would encourage the FCA to do so.

The Panel agrees with the proposal to apply the same labelling regime introduced for funds to portfolio management offerings, only if the qualifying criteria are met. The Panel believes that the labelling framework provides clarity and consistency in identifying sustainable investment portfolios, which is crucial for retail investors seeking to understand their investments and align them with their values and preferences. The approach to labelling portfolios also helps improve consumer confidence in sustainable investment products and enables consumers to compare portfolios more effectively.

The Panel also supports the requirement for portfolio managers to provide a clear rationale for their decision not to utilise sustainability labels, ensuring transparency and accountability in their investment strategies.

The Panel agrees with the proposal to apply the same threshold approach as introduced for funds to portfolio management offerings. The Panel also considers that the 70% minimum threshold considers sustainability-related rules or guidance in other jurisdictions. The Panel encourages the FCA to continue engaging with other international regimes to ensure that the SDR regime remains compatible and interoperable with the regimes of other jurisdictions.

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[4] https://www.fca.org.uk/panels/consumer-panel/publication/final_fscp_response_fca_-_sustainability_disclosure_requirements_cp22-20.pdf

The Panel considers that it would be helpful to have more specific guidelines and clear rules around what happens if the value of the underlying assets of the portfolio changes so that the relevant sustainable assets in the portfolio no longer make up the prescribed threshold percentage required. This risk might mean that in practice, from a consumer perspective, consumers may think they have chosen a portfolio that matches their preferences to then find that what they thought they invested in no longer qualifies.

The Panel also agrees with the proposed independent and ongoing assessment requirements to ensure portfolio compliance with the specified criteria. Additionally, the Panel supports robust record-keeping practices to enable firms to justify their use of specific labels.

As in our previous consultation response[5] on this matter, the Panel believes that Boards should be responsible for approving the approach to the use of sustainability labels for their products and verifying the robustness of their firm's labelling approach.

The Panel would be satisfied with an assessment conducted either internally or by third-party providers, as long as the chosen method meets the criteria for ensuring consumer confidence in products and services.

Question 4: Do you agree with our approach to naming and marketing? If not, what alternative approach would you suggest and why?

The Panel agrees with the proposed approach to naming and marketing to retail investors to remain consistent with those applied for funds. Since the name of the product is the first thing that a consumer reads or hears about a product or service, compliant marketing of portfolios is key to the understanding of the product offered.

Clear guidelines on naming and marketing will help retail investors make informed choices about the portfolios that meet their needs and preferences, making products fair and not misleading. It will also prevent greenwashing and ensure that sustainability claims are accurate and meaningful, thereby safeguarding the integrity of sustainability claims and fortifying consumers' trust.

[5] https://www.fca.org.uk/panels/consumer-panel/publication/final_fscp_response_fca_-_sustainability_disclosure_requirements_cp22-20.pdf

The Panel would also re-emphasise that it would be sensible to test consumer comprehension of the meaning of all four proposed labels both before and after they are introduced and would encourage the FCA to do so

Question 5: Do you agree with our proposed approach to disclosures, including the tiered structure? If not, what alternative do you suggest and why?
The Panel agrees with the proposed approach to disclosures (when portfolio managers are using a label or using sustainability-related terms without a label). The Panel also agrees with the approach for the tiered structure.

In particular, the Panel supports the approach for portfolio managers to generate their own consumer-facing disclosures for retail investors, as they are responsible for assessing the portfolio assets against the qualifying criteria. Additionally, the Panel agrees with making portfolio management disclosures publicly available and easily accessible to retail investors. Regarding bespoke portfolios, the Panel supports the proposal for portfolio managers to directly provide clients with information on underlying assets.

The Panel agrees that consumer-facing sustainability disclosures on portfolios should align with fund disclosures, being no longer than two pages, to facilitate consumer understanding.

The Panel agrees that disclosure documents should be updated at least once a year. It also considers that they should be reviewed whenever there is a material change in portfolio outcome or strategy.

The Panel believes that standardised portfolio information will assist consumers in effectively comparing various portfolios. However, the Panel is disappointed to note that, in line with our previous consultation response on the SDR regime for funds, the FCA has not mandated a disclosure template to facilitate consumers' understanding of how different products compare. Standardisation is vital as it simplifies the process of comparing and contrasting product features, enhancing transparency and informed decision-making for consumers.

The Panel notes that the FCA has set out proposed categories of disclosure in paragraph 3.45 of the consultation paper, which will hopefully help ensure some consistency, even if the exact form of disclosure is not mandated. The Panel hopes that these will be applied consistently by firms in practice and considers that this should be a key indicator of success in the FCA’s post-implementation review.

The Panel suggests that as part of the post-implementation review, the FCA should undertake consumer testing to determine if consumers can effectively manage receiving various forms of disclosure from different firms, or if they would benefit from greater standardisation. If consumer testing indicates that standardisation would enhance consumers' decision-making processes, the FCA should remain open to implementing a mandated template in the future.

Consistent with our previous consultation response[6], the Panel continues to support the FCA's approach to disclosures at the entity level. We believe that providing information on how firms approach sustainability at the entity level will assist consumers in making informed decisions about which firms to engage with.

Overall, subject to our points about consumer testing, the Panel believes that the proposed approach to disclosures, including the tiered structure, ensures that retail investors receive the necessary disclosures and access to relevant information. This facilitates customised reporting tailored to the complexity and characteristics of investment products, thereby improving transparency and comparability for retail investors across both product and entity levels.

Question 6: Do you agree with our proposals for distributors? If not, what alternatives do you suggest and why?

The Panel endorses the proposed approach for distributors (e.g. financial advisers, platforms etc.) with regards to communicating labels and consumer-facing disclosures.

Distributors play a pivotal role in disseminating accurate and relevant information regarding sustainable investment products. Providing clear guidelines for distributors can help promote responsible distribution practices and empower retail investors to make informed decisions.

Question 7: Do you agree with the proposed cost-benefit analysis set out in Annex 2? If not, we welcome feedback in relation to the one-off and ongoing costs you expect to incur and the potential benefits you envisage.

In evaluating the proposed cost-benefit analysis outlined in Annex 2 of the consultation paper, the Panel generally agrees with the outlined approach and potential benefits for consumers that may include improved comprehension, transparency, trust and confidence in the sustainability investment products. The Panel also supports FCA’s intention to monitor and measure the benefits and success post-implementation phase.

[6] https://www.fca.org.uk/panels/consumer-panel/publication/final_fscp_response_fca_-_sustainability_disclosure_requirements_cp22-20.pdf

The Panel underscores the importance of the FCA considering how costs might ultimately affect consumers based on supply and demand elasticity. It emphasises the need to assess potential differences in costs and benefits across firms of varying sizes and investor types. This includes factoring in both one-time implementation expenses and ongoing compliance and reporting costs, ensuring that any regulatory changes ultimately benefit consumers and more specifically for the FCA, the costs associated with implementation, staff training and evaluating the successes of implementation.