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

Telephone: 020 7066 9346
Email: enquiries@fs-cp.org.uk

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By email: cp22-20@fca.org.uk

Dear Sir / Madam,

Financial Services Consumer Panel response to FCA consultation on Sustainability Disclosure Requirements (SDR) and investment labels – CP22/20

The Financial Services Consumer Panel (the Panel) is an independent statutory body. We represent the interests of individual and small business consumers in the development of financial services policy and regulation in the UK.

We welcome the opportunity to respond to this consultation on Sustainability Disclosure Requirements (SDR) and investment labels. The Panel broadly supports the measures set out in this consultation. In particular, the Panel supports:

- the fact that measures will cover a broad definition of sustainability, rather than purely climate-change linked measures, which will maximise the number of consumers that will benefit;
- the three new proposed sustainable categories, which the Panel considers have clear and distinct rationales. However, the Panel would prefer to see the label for the "Sustainable impact" category switched to "Sustainable solutions", as it considers that this would be a better match;
- the decision to drop previous proposals to include a "Responsible" category for products that wanted to describe themselves as sustainable, but which did not qualify for one of the sustainable labels, as we considered that this category would confuse consumers and lead to greenwashing;
- the decision to ban the use of sustainability-related terms for the naming of all in-scope products, except where the product qualifies for one of the three sustainable investment labels, which will help prevent greenwashing; and
- the decision to prioritise the findings from the FCA's consumer testing and to require all in-scope products to provide consumer-facing sustainability disclosure, even where they are not categorised as sustainable.

The Panel would like to see the same regime extended to cover other investment products, including investment in pensions. This will allow consumers to make effective choices that reflect their priorities and preferences around sustainability across their entire investment portfolio and will ensure that the same risk is associated with the same regulatory outcome. Consumers might also want to have a diversified portfolio of sustainable investments, without the need to pick the individual components. Therefore, it might help consumers to be able to choose a product that invests in all three sustainability activities, rather than the activities associated with just one of the three sustainability labels. For this reason, the Panel considers that it would be worth assessing the benefits of introducing a "Sustainability composite" label for products investing an appropriate share of assets in funds qualifying for a mix of the three FCA's sustainable investment labels (rather than simply concentrating on one type of sustainability activity).

The Panel would also like to see a requirement that Boards should assess that the approach to applying sustainability labels to their products is robust.

Given that reporting on sustainability issues is continually evolving, the Panel considers that the proposed post-implementation review will be important. The Panel recommends that further consumer testing should be done as part of the post-implementation review process, to assess whether the new measures are performing as expected.

In general the Panel considers it important that the overarching regulatory regime governing retail investments, including sustainability disclosure requirements and investment labels, provides a coherent approach to setting regulation that meets consumers' needs. Our response should be considered in the context of our vision for how the market should function, which is set out in our response to the FCA's call for input on consumer investments. The foundation of this vision is a correctly implemented and supervised Consumer Duty[1]. This would make the firm responsible for consumers' overall suitability for and understanding of the products which they invest in. This would create a market where:

- more of the population with investible assets, and where the decision is right for them, make an active and informed choice to invest, so maximising their own returns and supporting the real economy;
- the information disclosed to potential investors is designed in a way that will allow them to make effective decisions, and to compare the risks, rewards and sustainability not only of different options for a given product type, but also of different products;
- it is not possible to use regulatory arbitrage to circumvent rules designed to protect consumers;
- information, education, guidance and advice is readily available and tailored to the consumer to ensure they are supported in taking decisions both pre-investment and on an ongoing basis. This will require the re-engineering of current thinking to better integrate these aspects and blend them throughout the customer's investment life-cycle. Only in this way will trust be established;
- the use of guidance or advice should be the gateway to anything other than a range of default-based, simple, tax-efficient investments;
- products must be better designed, labelled and described to enable consumers to better understand fully the opportunities, risks and costs involved and easily compare these across options; and
- when harm does occur, there must be easily accessible and efficient redress and compensation solutions.

Our responses to the questions posed in the consultation are included at Annex A below.

Yours sincerely,

Helen Charlton

[1] For our comments on the FCA's proposed new Consumer Duty, please see here: https://www.fs-cp.org.uk/sites/default/files/final_fscp_response_cp21-36_a_new_consumer_duty_20220214.pdf

Chair, Financial Services Consumer Panel

Annex A – responses to questions

Q1: Do you agree with the proposed scope of firms, products and distributors under our regime? If not, what alternative scope would you prefer, and why?

The Panel agrees that the type of firms, products and distributors identified should be in scope of the FCA's proposed regime.

However, the Panel considers that the scope of requirements for labels and disclosures should be as broad as possible. This will help ensure that different product groups do not end up producing slightly different disclosure requirements, which would make it impossible to compare options across investment types. The Panel therefore would like to see consistent rules applied across all consumer investments, including for example, investment as part of pensions. It would therefore support extending the regime further as soon as possible.

Q2: Do you agree with the proposed implementation timeline? If not, what alternative timeline would you prefer, and why?

Ensuring that consumers can invest in sustainable investment products with confidence and without fear of greenwashing is important for confidence in the financial system. The Panel would therefore like the new regime to be in place as quickly as possible. The Panel recognises that it will take time for firms to implement any changes and feels that the proposed timetable will give them time to do so. The Panel would not support proposals to delay implementation.

Q3: 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.

The Panel has no comment on the costs identified in the cost-benefit analysis.

Q4: Do you agree with our characterisation of what constitutes a sustainable investment, and our description of the channels by which positive sustainability outcomes may be pursued? If not, what alternatives do you suggest and why.

The Panel agrees with the FCA's characterisation of what constitutes a sustainable investment and the distinction between the enterprise contribution (of the underlying assets) and the investor's contribution, where the latter can arise through:

- active investor stewardship and engagement;
- influencing asset prices and the cost of capital; and
- seeking a positive sustainability impact through allocating capital to underserved markets or addressing market failures.

The Panel considers that the description of these channels is helpful and that the FCA has used them effectively in order to identify different categories of sustainable investment activity.

Q5: Do you agree with the proposed approach to the labelling and classification of sustainable investment products, in particular the emphasis on intentionality? If not, what alternatives do you suggest and why?

The Panel supports the approach to labelling and classifying sustainable investment products. It considers that the focus on intentionality is helpful, and that the clear differentiation between the purposes of the three proposed labels will help consumers identify and support the type of sustainable investment activities that meet their goals.

The Panel is particularly pleased to see that the FCA has dropped proposals to include a "Responsible" category for funds and products that did not meet the standards necessary to be categorised as "sustainable". As the Panel set out in its response to DP 21/4, it considered that this additional category would be confusing for consumers.

The Panel is also pleased that the sustainability labels will not be defined purely in terms of climate change and will therefore be able to support the full range of ESG activities.

The Panel supports the proposal that the FCA will trademark the labels it introduces, in order to give it control over how they are used and applied.

The Panel does have a suggestion in relation to the visual approach used in the labels set out in Figure 4. There is a strong link between the colour green and sustainability in people's minds, meaning it could be useful to use this colour in the labelling scheme to visually reinforce the labels' intentions. The Panel notes that in Figure 4 only one of the proposed labels (for "sustainability focus") is coloured green. The Panel considers that it could also be helpful to colour the "sustainable impact" category label as green (albeit a different shade), because products in this category will be investing directly in sustainability enhancing activities. As the aim of the "Sustainability improvers" category is to persuade organisations to improve sustainability, and changes to sustainability may or may not be forthcoming, it may be worth keeping the label as blue (as shown in Figure 4) rather than green to help differentiate it. However, the Panel considers that the visual treatment of the final labels should be subject to consumer testing, in order to assess how this impacts consumer decision making and understanding.

Q6: Do you agree with the proposed distinguishing features, and likely product profiles and strategies, for each category? If not, what alternatives do you suggest and why? In particular, we welcome your views on:

> **a. Sustainable Focus: whether at least 70% of a 'sustainable focus' product's assets must meet a credible standard of environmental and/or social sustainability, or align with a specified environmental and/or social sustainability theme?**
>
> **b. Sustainable Improvers: the extent to which investor stewardship should be a key feature; and whether you consider the distinction between Sustainable Improvers and Sustainable Impact to be sufficiently clear?**
>
> **c. Sustainable Impact: whether 'impact' is the right term for this category or whether should we consider others such as 'solutions'; and the extent to which financial additionality should be a key feature?**

The Panel broadly supports the FCA's proposed approach and considers that there is a strong link between the intention associated with the approach to sustainability and the three proposed categories that will help differentiate them.

However, the Panel considers that it would be helpful to have more specific guidelines around what will qualify under the three different sustainable product categories. In particular, while the "Sustainable Focus" requires at least 70% of the product's assets to meet credible standards of sustainability, there are no similar requirements for the other two categories. The Panel considers that it would be sensible for:

- the "Sustainable Impact" category to have similar guidelines on the percentage of assets allocated to relevant activities as the "Sustainable Focus" category. The Panel would also support the need for conditions around the financial additionality associated with the solutions funded by products in this category, in order to better distinguish it from the "Sustainable Focus" category.
- the "Sustainable improvers" category to require that the stewardship and influencing activities are conducted for all assets that would not already qualify as sustainable. The sustainable credentials for this category rely on the ability of those managing products in this category to persuade the entities they invest in to adopt strategies that are more sustainable. Therefore there should be a higher threshold than the proposed threshold for the "Sustainable Focus" category, and preferably 100%, to counterbalance the lack of inherent sustainability and to prevent products from parking assets where their stewardship activities have not been successful into an "other" category, rather than imposing penalties such as disinvesting.
- there to be clear rules as to what happens to a product's right to use a sustainable investment label, if the value of the underlying assets shifts so that the relevant sustainable assets no longer make up the prescribed percentage of the total. This risk might mean that in practice, from a consumer perspective, it would be preferable if 100% of assets needed to be in the relevant sustainability category (potentially with some allowance for the need to hold cash for periods when the investment portfolio is being adjusted). This would avoid situations where consumers think they have chosen a product that matches their preferences, and then find that what they thought they invested in no longer qualifies.

In addition, the Panel considers the naming of the "Sustainable Impact" category could be improved and would prefer the use of "Sustainable solutions". It considers that "Sustainable solutions" would chime better with the category's role of supporting activities that directly improve sustainability outcomes. However, the Panel considers that it would be sensible to test consumer comprehension of the meaning of all three proposed labels, before they are introduced.

As well as the three underlying sustainability categories, the Panel considers that there may be benefits to introducing a "Sustainability composite" label for a product with 100% of its investments in funds or products qualifying for one of the three FCA investment labels, but where its investments span more than one category. Consumers might want to have a diversified portfolio of sustainable investments, without the need to pick the individual components. A product that combined the three different sustainability activities the FCA has identified would achieve this, but under the proposed rules it would not itself qualify as sustainable, or be allowed to use sustainability terms in its name. For example a product that invested 1/3 of assets in the "Sustainable focus" category, 1/3 in "Sustainable improver" and 1/3 in "Sustainable impact" would not qualify for a sustainable label. For this reason, the Panel considers that it would be worth assessing the benefits of introducing a "Sustainability composite" label for products investing an appropriate share of assets in funds qualifying for any of the three FCA's sustainable investment labels (rather than simply concentrating on one type of sustainability activity). The use of the term "composite" for the name of this category is purely a suggestion, and the FCA should undertake consumer testing to assess understanding and pick the best terminology.

Q7: Do you agree with our proposal to only introduce labels for sustainable investment products (ie to not require a label for 'non-sustainable' investment products)? If not, what alternative do you suggest and why?

The Panel supports proposals to only allocate labels to those products in the three sustainability categories, providing the FCA also implements proposals to ban firms from naming products using sustainability-related terms (as set out in paragraph 6.12), if they do not qualify to use one of the sustainability labels. The Panel considers that this ban should also extend to existing products and thought will need to be given on how long existing products using sustainability-related terms will be given to rename, once the ban is introduced. In addition, products that do not qualify for one of the sustainable labels should not be able to use sustainability terms prominently in any marketing materials.

If the FCA does not implement this ban, then the Panel considers that the FCA should instead introduce a "Not promoted as sustainable" label for any products that do not qualify.

However, the Panel considers that the FCA's proposed approach, namely prohibiting the use of names using sustainability-related terms for non-qualifying products, is the best solution and will lead to least confusion amongst consumers.

Q8: Do you agree with our proposed qualifying criteria? If not, what alternatives do you suggest and why? In your response, please consider:

- **whether the criteria strike the right balance between principles and prescription**
- **the different components to the criteria (including the implementing guidance in Appendix 2)**
- **whether they sufficiently delineate the different label categories, and;**
- **whether terms such as 'assets' are understood in this context?**

The Panel broadly supports the proposed qualifying criteria, encapsulated in the five principles, namely:

1. Sustainability objective
2. Investment policy and strategy
3. Key performance indicators
4. Governance and reporting
5. Stewardship

In relation to principle 1, the Panel does, however, consider that it would be helpful if the objective for the "Sustainable improvers" category included articulating how the product will deal with situations where the attempt to influence strategy has not worked. This should include a requirement that products must either drop investments where attempts to influence behaviour have repeatedly failed, or change the approach to influencing. This is because for products in this category to count as sustainable while investing in entities that are not a priori behaving in a sustainable way, they must be able to demonstrate that they can deliver change. In other words, it is the outcomes that are key to the sustainability of this category, not the inputs. Repeatedly telling an entity that they should behave more sustainably, when you know you will be ignored, does not constitute sustainable investing. An emphasis on outcomes will also be important for the KPIs associated with the "sustainable improvers" category.

In relation to principle 4, the Panel considers that it could be helpful to introduce a requirement that Boards should assess that the approach to applying sustainability labels to their products is robust.

Q9: Do you agree with the category-specific criteria for:

• The 'Sustainable focus' category, including the 70% threshold?

• The 'Sustainable improvers' category? Is the role of the firm in promoting positive change appropriately reflected in the criteria?

• The 'Sustainable impact' category, including expectations around the measurement of the product's environmental or social impact?

Please consider whether there any other important aspects that we should consider adding.

The Panel is broadly content with the proposed approach to the three categories. However, it considers in the case of the "sustainability improvers" category it will be important that:

- the measurement of sustainability concentrates on outcomes rather than inputs,
- there is a clear ex ante plan of what improvements the product is trying to achieve that can be used to measure success, and
- there is a clearly articulated strategy for how the product will adjust its investment strategy in cases where attempts to influence behaviour have repeatedly failed.

Q10: Does our approach to firm requirements around categorisation and displaying labels, including not requiring independent verification at this stage, seem appropriate? If not, what alternative do you suggest and why?

The Panel considers that it is important that any classification system that is introduced should be robust, applied consistently and credible. The Panel considers that the Consumer Duty has the potential to provide important guarantees in this area, including in relation to the role of s21 approvers. It will therefore be important that the Consumer Duty is implemented and supervised effectively in relation to sustainability requirements.

The Panel supports the need for strong record keeping, in order to ensure firms can document why they used specific labels. One option might be to require Boards to approve the use of sustainability labels for their products and to verify that the approach to labelling used by their firm is robust.

The Panel does not have a preference on whether verification that labels are appropriate should be performed by third party providers, providing it can be shown that the chosen approach meets these criteria to ensure that consumers can be confident in any disclosure and labelling provided.

Q11: Do you agree with our proposed approach to disclosures, including the tiered structure and the division of information to be disclosed in the consumer-facing and detailed disclosures as set out in Figure 7?

The Panel supports the proposal that there should be a summary consumer-facing disclosure on sustainability issues and separate more detailed information primarily aimed at institutional investors. However, the Panel considers that, while the focus of disclosure to consumers should be the proposed consumer-facing summary disclosure, the more detailed disclosure documents should be made available to consumers on request.

The results of the FCA's consumer testing showed that consumers' understanding was improved by providing them with sustainability disclosures for all products, not just those with a sustainability label. In line with these findings, the Panel therefore considers that the consumer-facing summary disclosures should be provided for all in-scope products, not simply those qualifying to apply one of the three proposed sustainability labels. The

Panel agrees that the consumer-facing sustainability disclosure should be no more than 2 pages long, in order to help consumers.

The Panel also considers that a degree of standardisation in the way that sustainability information is presented would be helpful, by making it easier for consumers to compare different options.

Q12: Do you agree with our proposal to build from our TCFD-aligned disclosure rules in the first instance, evolving the disclosure requirements over time in line with the development of future ISSB standards?

The Panel supports the proposal to focus on a wider set of sustainability-related disclosures, rather than purely focusing on climate-related disclosures. It agrees with the proposal that the disclosure requirements should evolve over time, as the ISSB develops further measures. Alignment with ISSB measures will ensure consistency with other sources of sustainability disclosure, which will potentially help consumers who are actively interested in this area.

However, as part of the proposed post-implementation review, the Panel considers there should be an assessment of whether there are still gaps in the ISSB's proposals, where consumers would find it helpful if the FCA were to develop measures.

Q13: Do you agree with our proposals for consumer-facing disclosures, including location, scope, content and frequency of disclosure and updates? If not, what alternatives do you suggest and why?

The Panel largely supports the proposals around consumer-facing disclosure requirements and considers that these will benefit consumers:

- It agrees that it makes sense that consumer-facing disclosure should be made available in a prominent place on the relevant digital medium for the firm (eg main product webpage), with disclosure no more than one mouse click away from where the label for qualifying products is presented. However, it would be helpful to consider how to ensure the information in these disclosure documents will be provided in consumer journeys that do not rely on a digital route.
- It agrees that the relevant consumer-facing sustainability document should be co-located on the product pages with other key disclosure documents (for example the KID for PRIIPS), and supported by clear signposting, as this will help consumers. As disclosure rules for products such as PRIIPS and UCITS develop, thought should be given to how these will interact as a package with sustainability disclosures.
- It considers that there should be prominent links on product websites to sustainability-related consumer-facing disclosure for all in-scope products, not just those that qualify for a sustainability label. While products that are not engaged in sustainability-related strategies will provide much more limited disclosures on sustainability, FCA research found that these disclosures will still help consumers compare different product options more effectively. The Panel is pleased to see that the FCA's proposals have been informed by this consumer research, as this is an important way to ensure regulation and disclosures will meet the needs of consumers. The Panel thinks that these disclosures should be provided by all in-scope products, not just products provided by in-scope firms as suggested in paragraph 5.31.
- It supports the need to introduce consistency around the format and content of consumer-facing disclosures and agrees with the proposed content. However, a template could help ensure greater consistency, which might in turn help support consumer understanding. Therefore the Panel considers that it would be helpful to review how effective disclosure is in this area as part of the post-implementation

review, and that this review should include consumer testing to assess whether consumer decision-making would be further strengthened by the introduction of a template.

- It supports the need for disclosure documents to be concise, and feels that an emphasis on plain English, rather than technical language, is important to ensure the information will be understood.
- It 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 product outcomes or strategy.
- It agrees with the need to notify investors at least 60 days before a firm implements changes that would impact a product's approach to sustainability. The Panel considers that this communication could either be in writing, or by email, depending on customer preferences. However, there may be circumstances where the entities associated with the underlying assets held by the product change their strategy in a way that would impact a product's ability to qualify for a given sustainability ranking. In those circumstances, unless it is possible to rebalance the product's investment strategy to maintain the ranking, the Panel considers that it would be important to notify existing investors as quickly as possible, as well as to change the disclosures provided to new investors. If a firm knows that the information provided to new investors on their product is no longer valid, then this would potentially constitute misselling. However, it would also be inappropriate for new investors to have more up-to-date information than existing investors.
- If more detail is added to the rules around "unexpected investments", then the Panel considers that crypto-asset investments might be an investment type to include, given the significant carbon footprint associated with the crypto industry.

Q14: Do you agree with the proposal that we should not mandate use of a template at this stage, but that industry may develop one if useful? If not, what alternative do you suggest and why?

The Panel is disappointed that the FCA has not mandated a disclosure template to help consumers understand how different products compare, as standardisation makes it easier to compare and contrast product features. However, the Panel notes that the FCA has set out categories of disclosure in paragraph 5.38 that firms must apply, 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 also considers that as part of the post-implementation review the FCA should commit to doing consumer testing in this area, to assess whether consumers are able to cope with receiving different forms of disclosure from different firms, or would benefit from greater standardisation. The FCA should be open to introducing a mandated template in the future, if this consumer testing reveals that standardisation would help improve consumers' decision making.

Q15: Do you agree with our proposals for pre-contractual disclosures? If not, what alternatives do you suggest and why. Please comment specifically on the scope, format, location, content and frequency of disclosure and updates.

Having considered the implications for consumers, the Panel supports proposals that:

- there should be separate, more detailed, legally binding, static information on sustainability through pre-contractual disclosures over and above the consumer-facing sustainability disclosures provided for all in-scope products. This will provide

an opportunity for more detailed information to be provided, without overwhelming consumers, but should be readily available to them if desired.
- pre-contractual information on sustainability is only needed for products which qualify for one of the three sustainability labels, or where sustainability considerations are integral to the strategy of the product (even if it does not qualify for an FCA sustainability label).
- the content of the pre-contractual disclosure should cover the issues set out following paragraph 5.50. However, the Panel thinks that for the proposal under the Investment strategy and policy (Principle 2, paragraph 2), namely that the disclosure should set out "*the conditions under which an asset in which the product has invested in may cease to meet its specified criteria for asset selection*", it will also be important to specify not just under what conditions an asset would no longer meet the criteria, but what the consequences of this will be.

The Panel does not have specific views on whether the proposed pre-contractual information should be provided in the form of a new document, or using existing pre-contractual documentation. However, the Panel agrees that it should be easy for someone to find this information, so a dedicated section would make sense.

The Panel is content with the proposed timetables and the split between the pre-contractual disclosure (Part A) and the performance reporting (Part B).

Q16: Do you agree with our proposals for ongoing sustainability-related performance disclosures in the sustainability product report? If not, what alternative do you suggest and why? In your response, please comment on our proposed scope, location, format, content and frequency of disclosure updates.

The Panel supports the need for ongoing reporting on the sustainability-related performance of products where sustainability considerations inform the approach to investment. If a consumer's decision to purchase a product is based in whole or in part on the product's approach sustainability, then it is important that they receive information on the product's performance against this dimension. Therefore, the Panel considers that this information should be provided for:

- all products that are required to provide the Part A pre-contractual information, not just those that qualify for an FCA label; and
- existing in-scope products with a sustainability focus (which will not need to produce Part A pre-contractual disclosures as they already exist), not just new products. (For existing products the distinction between Part A and Part B may be confusing, so it might be helpful to use an alternative naming convention.)

In relation to the location of these reports, the Panel notes that under paragraph 5.64 the intention is that they should be in a prominent place on the main website, with a link from the homepage. However, firms may well have more than one product needing to provide these reports. If they all need to have separate links from the homepage, this could make it hard to find the relevant report. The Panel suggests that it is important that for each product the ongoing sustainability reporting should be provided on the product's webpage (or similar). However, it would probably also be helpful for firms to be required to provide a dedicated sustainability section of the website (linked from the main webpage) that contains information on both the firm's own sustainability performance and the performance of any relevant products it provides. This would allow people to compare how the different sustainability-related products offered perform, as well as how the firm itself approaches sustainability.

The Panel considers that to aid comparability it is helpful to align metrics with relevant metrics from other sustainability initiatives (such as the TCFD – Task Force on Climate-related Financial Disclosures). However, the Panel considers that it will be important that the sustainability measures used are not purely focused on climate change, given the wider sustainability remit for these proposals, which the Panel supports.

In the case of the "Sustainability improvers" category, the Panel considers that the metrics should focus on the outcomes, rather than the inputs, associated with the stewardship and influencing activities. They should also include metrics for where influencing activities have failed and what actions were taken.

The Panel agrees that after a product's first report, it would be helpful for subsequent reports to produce information on how metrics have performed over time.

Q17: Do you agree with our proposals for an 'on demand' regime, including the types of products that would be subject to this regime? If not, what alternative do you suggest and why?

The Panel is content with these proposals.

Q18: Do you agree with our proposals for sustainability entity report disclosures? If not, what alternatives do you suggest and why? In your response, please comment on our proposed scope, location, format, content, frequency of disclosures and updates.

The Panel agrees that it will be helpful for consumers to have information on how firms approach sustainability at an entity level, in order to allow them to decide which firms they want to do business with.

The Panel agrees that it would be helpful to include wider sustainability measures, not purely those related to climate change, as part of this reporting.

Q19: Do you agree with how our proposals reflect the ISSB's standards, including referencing UK-adopted IFRS S1 in our Handbook Guidance once finalised? If not, please explain why?

The Panel agrees that it would be useful to align the FCA's proposals with metrics produced by other bodies, in order to foster comparability and minimise duplication of effort. As reporting metrics in this area are still relatively underdeveloped, the Panel agrees that it makes sense that requirements should evolve in line with understanding in this area.

Q20: Do you agree with our proposed general 'anti-greenwashing' rule? If not, what alternative do you suggest and why?

Yes. The Panel supports the requirement that all regulated firms should ensure that the naming and marketing of financial products and services in the UK is clear, fair and not misleading, and consistent with the sustainability profile of the product or service ie proportionate and not exaggerated. This would also accord with firms' responsibilities under the Consumer Duty. The Panel considers that there might be a role for Boards to have to approve the approach to the use of sustainability labels for their products and to verify that the approach to labelling used by their firm is robust.

Q21: Do you agree with our proposed product naming rule and prohibited terms we have identified? If not, what alternative do you suggest and why?

Yes. The Panel supports the proposal that only products that qualify for one of the three sustainability categories should be allowed to use sustainability-related terms for product naming.

The Panel supports the FCA's proposals to ban the use of sustainability-related terms in naming products that do not qualify. The Panel considers that this approach will minimise confusion on the part of consumers. However, thought will need to be given on how long existing products using sustainability-related terms will be given to rename, once the ban is introduced.

If, following consultation, this ban is not introduced, then the Panel considers that it will be important for the FCA to mandate a catch all category label for all products that do not qualify along the lines of "Not promoted as sustainable".

Q22: Do you agree with the proposed marketing rule? If not, what alternative do you suggest and why?

As set out above, the Panel strongly supports the ban on using sustainability-related terms in naming products that do not qualify for one of the three proposed sustainable labels.

However, the Panel recognises the fact that sustainability issues may inform a firm's approach to particular products, such as tracking an ESG-tilted benchmark, even if the product would not qualify for one of the three sustainability category labels. The Panel considers that the FCA's proposal, that this should be factually addressed in pre-contract disclosures, is appropriate and that the ban on sustainability-related terms should not apply to these disclosures.

Q23: Are there additional approaches to marketing not covered by our proposals that could lead to greenwashing if unaddressed?

No comment.

Q24: Do you agree with our proposals for distributors? If not, what alternatives do you suggest and why?

The Panel supports the FCA's proposed approach to distribution, including the need for distributors to prominently display relevant sustainability product labels for qualifying products, and the need for them to provide access to the accompanying consumer-facing disclosures.

In relation to the marketing of overseas products that are recognised schemes (including exchange-traded funds), the Panel supports the FCA's proposals where these funds use prohibited sustainability-related terms in their naming and marketing. However, the Panel considers that the proposed approach could be strengthened further to emphasise to consumers that the same standards do not apply. For example, rather than stating that "*This product is based overseas and is not subject to FCA sustainable investment labelling and disclosure requirements*", this could be strengthened to something like:

> "This product is based overseas and its sustainability credentials have not been verified using the FCA's rules on sustainable investment labelling and disclosure."

Q25: What are your views on how labels should be applied to pension products? What would be an appropriate threshold for the overarching product to qualify for a label and why? How should we treat changes in the composition of the product over time?

The Panel would like to see the rules on Sustainability Disclosure Requirements and investment labels extended to cover all investment products, including pensions. This will ensure that consumers are provided with comparable information that allows them to make effective choices that reflect their preferences.

The Panel agrees that it makes sense for rules on Sustainability Disclosure Requirements and investment labels to be applied at the level at which consumers make their investment choices, not at the pension-scheme level, in other words at the level of the constituent funds.

In relation to overall pension products, such as default arrangements, the Panel agrees that a threshold of 90% of funds invested in constituent funds with a specific sustainability label would balance the dilution effect of the remaining 10%. Therefore if 70% of underlying assets need to be associated with a particular type of sustainability activity, in order for a product to qualify for that label, it would make sense to set a threshold of 90% of constituent funds qualifying for the label, before a product investing in multiple funds can also qualify for the same label. However, as set out in the answer to Question 6, thought needs to be given to the impact of changes in underlying asset values on the ability of a product to qualify for a label. From the point of view of consumers, it might therefore be preferable for 100% of assets to qualify for a label (with an allowance for holding cash, either as investments are adjusted or, in the case of pensions, for lifestyling considerations).

However, there are benefits to consumers from having a diversified portfolio. This means it could help consumers to be able to choose a product that invests in all three sustainability activities, rather than the activities associated with just one of the three sustainability labels. Therefore there may be benefits to introducing a "Sustainability composite" label for a product with 100% of its investments in funds qualifying for any one of the three FCA investment labels, but where the investments are spread across a mix of different labels. (If a threshold of 90% is the threshold used for fund of funds qualifying for a single sustainability label, then the same threshold should be used for the composite category, if introduced.) The Panel suggests that it would be helpful for the FCA to explore this option.

The Panel does not have specific recommendation on how to handle lifestyling, but given its use in the pension space, it might be appropriate to allow default arrangements with a "Sustainable X - lifestyling" label. For this to be successful there would need to be rules on thresholds for sustainable investments during the lifestyling part of the product and how long the lifestyling should take.

Q26: Do you consider the proposed naming and marketing rules set out in Chapter 6 to be appropriate for pension products (subject to a potentially lower threshold of constituent funds qualifying for a label). If not, why? What would be an appropriate threshold for the naming and marketing exemption to apply?

Yes. The Panel supports the rules set out in Chapter 6, including the ban on using sustainability-related terms when naming products that do not qualify for an FCA label. The Panel considers that the qualification for being allowed to use sustainability-related terminology when naming products should include products that qualify for an FCA label based on the composition of their constituent funds. The Panel considers that this should also apply to any "Sustainability composite" label, if the FCA decides to introduce one.

Q27: Are there challenges or practical considerations that we should take into account in developing a coherent regime for pension products, irrespective of whether they are offered by providers subject to our or DWP's requirements?

No comment beyond the fact that the Panel considers that it would be helpful for different regulators to introduce consistent rules in this space.

Q28: To what extent would the disclosures outlined in Chapter 5 be appropriate for pension providers ie do you foresee any challenges or concerns in making consumer-facing disclosures, pre-contractual disclosures and building from the TCFD product and entity-level reports?

The Panel would prefer to see a consistent approach to reporting on these issues across different products (including pensions), in line with our comments above. Given the FCA's research on the impact of consumer-facing disclosures on effective decision making, the Panel considers that this aspect of the FCA's proposals will be particularly important.

Q29: Do you agree that the approach under our TCFD-aligned product-level disclosure rules should not apply to products qualifying for a sustainable investment label and accompanying disclosures? Would it be appropriate to introduce this approach for disclosure of a baseline of sustainability-related metrics for all products in time?

The Panel considers that all products qualifying for an FCA sustainability label should be required to comply with the associated disclosure rules, regardless of size. An FCA label is likely to be a key decision criteria for consumers investing in labelled products, which means it is important for them to understand how they are operated and perform.

FCA research also demonstrated the importance for consumer decision making of all products providing high-level, consumer-facing sustainability disclosures, and the Panel considers that this requirement should also apply, regardless of size.

As set out above, the Panel welcomes the fact that the proposed approach to labelling will encompass a wider definition of sustainability, not purely climate change. It therefore agrees that it is helpful for metrics to reflect a similar breadth as new measures are developed.

Q30: What other considerations or practical challenges should we take into account when expanding the labelling and disclosures regime to pension products?

No comment.

Q31: Would the proposals set out in Chapters 4-7 of this CP be appropriate for other investment products marketed to retail investors such as IBIPs and ETPs. In your response, please include the type of product, challenges with the proposals, and suggest an alternative approach.

The Panel considers that it would help consumer understanding, if there were a consistent approach to the use of sustainable labelling, naming and disclosure across all potential investment product groups. This should include a ban on the use of sustainability-related terms in the naming of non-qualifying products, but the provision of appropriate disclosure setting out the approach to sustainability issues.