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FCA Delays Introduction of Sustainability Disclosure Requirements

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The UK Financial Conduct Authority (FCA) has **announced** that its widely-anticipated Policy Statement in response to the Sustainable Disclosure Requirements (SDRs) and investment labels consultation will now be published in Q3 2023 instead of H1 2023, and that the proposed effective dates will be adjusted accordingly. The consultation was **motivated by a concern** on the part of the FCA that “firms are making exaggerated or misleading sustainability-related claims about their investment products; claims that don’t stand up to scrutiny (greenwashing).” The FCA’s proposals subject to the consultation were intended “to build transparency and trust by introducing labels to help consumers navigate the market for sustainable investment products, and ensuring that sustainability-related terms in the naming and marketing products are proportionate to the sustainability profile of the product.”

The delay, the FCA explained, will enable it to consider the significant response to its consultation on the new rules. The FCA reports that there is broad support for the proposed sustainable disclosure regime and broader policy outcomes that it is looking to achieve, while specifically pointing out the “rich, constructive feedback on some of the detail” of its proposal.

The FCA added that: “A strengthened regulatory framework for these products will increase opportunities and competition in the market and help foster growth and the demand and supply of products that better suit consumers’ needs and preferences.”

More specifically, the FCA has highlighted that it wants to take account of practical challenges faced by firms in implementing the SDRs as currently proposed. It highlights two areas of specific concern that it will review and consider further:

- refinement of specific criteria for the proposed labels; and
- how different products, asset classes and strategies can qualify for a UK sustainability label.

The FCA has also noted that its Policy Statement will clarify that for the SDR labels:

- it will not prescribe primary and secondary channels for achieving sustainability outcomes; and
- firms will not be required to obtain independent verification of product categorization to qualify for a label.

The delay to the publication of the Policy Statement is also likely to mean that the new anti-greenwashing rule (which was proposed to take effect from the publication of the Policy Statement) will be delayed. As noted above, the application of the regime will also be pushed back from the current provisional date of June 30, 2024 (12 months after publication of the Policy Statement), although the FCA is yet to confirm a new date for this.

Taking the Temperature: As we have commented on, the FCA has made it clear that it is focused on ESG-related disclosure, and just recently expressed concerns regarding the "overall quality" of ESG disclosures by benchmark administrators. However, the FCA's proposed rules for SDR and investment labels have been a source of debate, receiving praise and criticism from various groups. In January, the UK Sustainable Investment and Finance Association commended the rules for creating a "higher bar" for funds seeking to make sustainability claims. In contrast, in February, the Treasury Committee's Financial Service Regulation Sub-Committee urged the FCA to research the potential administrative and financial burdens of compliance with the proposed rule.

The delays will give in scope asset managers somewhat of a respite to prepare and consider the SDR's implications, including how it fits into other applicable regulatory regimes that asset managers may be subject to, such as the European Union's Taxonomy Regulation and Sustainable Finance Disclosure Regulation. We have reported on these issues on numerous occasions, such as here, here and here.