PENSIONS EUROPE

PensionsEurope's position paper on the ESA's Call for Evidence (CfE) on Greenwashing

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PensionsEurope supports the efforts of the European Commission and the ESAs to eliminate greenwashing. Greenwashing exists in the financial sector. The recent sustainable finance legislative framework helps decisively to reduce unsubstantiated ESG claims.

By nature, pension funds are long-term investors that have as their main objective the delivery of adequate pensions to their members and beneficiaries. This means they should naturally take the long-term view and are required to consider the long-term risks that may affect their portfolios. ESG risks, and climate change risks, in particular, play an increasingly significant role in risk-management.

Considering the specificities of pension funds

We should make sure that the proposals are fit for the collective setting of pension funds, which in some countries are very different from individual retail investment products. The situation where a retail customer proactively selects an investment product that matches their preferences occurs in some countries but not all countries. However, in other countries, the only alternative is the collective investment setting of a pension fund. Furthermore, we would like to emphasize that pension funds are active as buyers on the financial market, providing pension schemes. They do not provide personal financial products. Typical ‚clients' of pension funds are sponsoring companies which – especially in light of CSRD – are, contrary to retail customers, well able to conduct a satisfactory ESG due diligence of their suppliers. Simply copying regulations for retail financial services without regard to the specificities of pension funds will lead to poor and inadequate regulation. As not-for-profit organizations with often mandatory participation and without marketing or sales that operate on the demand side of the financial market, pension funds are not involved in 'misselling' ESG claims in order to obtain an unfair competitive advantage.

Nevertheless, pension funds do want and are obliged to inform their participants accurately about their investments. In some Member States, pension funds usually do not even invest directly in the assets, but rather via AIF und UCITS. As investors positioned at the end of the investment chain, pension funds rely on external data sources to assess and report on the sustainability characteristics of their investments. While it is therefore possible for pension funds to receive and spread false claims, it is also costly to verify all data. Most greenwashing risks for pension funds are thus related to the implementation of sustainable finance legislation, both by internal and external parties. PensionsEurope believes that the efforts to address greenwashing should prioritize correct and clear implementation of SFDR, Taxonomy and eliminate seeking of unfair competitive advantage.

Given that many pension funds are unable to fulfil the requirements of the SFDR at a reasonable cost and as pension funds are not able to meet the information criteria required for Art. 8 or even Art. 9 products, it is possible that they will try to classify their pension scheme under Art. 6 even if it promotes social and / or environmental characteristics.

Challenges arisen by Sustainable Finance regulation

The Taxonomy and SFDR are still being implemented and problems with ESG data availability, the implementation process and regulatory uncertainty continue to exist.

Under these circumstances, it is really challenging to assess the evidence of violations and the need for possible additional legislative and supervisory powers on greenwashing.

There are the three following challenges to be overcome concerning the existing regulation:

- Availability of good quality ESG data
- SFDR and Taxonomy implementation is still in progress
- Uncertainty and divergence in the regulatory frameworks, e.g. with a view at the interlinks between CSDR, CSDDD, Taxonomy and SFDR

<u>PensionsEurope's view on Greenwashing</u>

Regulation should allow for sufficient flexibility for pension funds' boards to incorporate the relevant ESG and non-ESG considerations. However, the implementation of sustainable finance legislation should introduce a certain level of comparability. Given the recent implementation of legislation, supervisors should focus on correct and clear implementation, before considering expanding legislative and supervisory powers. However, complete uniformity is not achievable and would come at the expense of comprehensibility and usability for end-users, such as pension fund participants. Instead, action on greenwashing should focus on parties seeking unfair competitive advantage. This excludes pension funds since, as stated above, they are not "market participants" that sell a "product" on an open market and are consequently not involved in dishonest marketing practices such as greenwashing – or even any marketing practices at all.

In assessing greenwashing, regulators and supervisors should accept various ESG approaches, with respect to the quite different kinds of financial services providers (banks, insurances, stock exchanges, asset managers, pension funds…). Assessing how green investment portfolios currently are and whether financial market players are doing what they say they are doing are part of that. Realizing ESG impact by taking into account engagement and contribution to the climate transition as a whole should be considered as an equally relevant approach.
Moreover, PensionsEurope believes that legal definitions of greenwashing should fit the definitions used in sustainable finance regulations, notably the SFDR and Taxonomy.
National Competent Authorities are currently equipped with supervisory tools to oversee the implementation of the SFDR. Due to the fact that the current framework in place - the SFDR - is not sufficiently clear, greenwashing may be unintended. Some crucial definitions are still missing, e.g. on 'ESG-characteristics' and 'sustainable investments'. Finally, we believe that differences in standards for government issued green bonds still unfortunately persist. The diversity in government-initiated green bond frameworks makes it hard for governments to quantify their impact, opening the door for multiple approaches to substantiate impact statements. This greenwashing risk could be prevented by requiring performance indicators.

<u>About PensionsEurope</u>

PensionsEurope represents national associations of pension funds and similar institutions for workplace and other funded pensions. Some members operate purely individual pension schemes.

PensionsEurope has **25 member associations** in 18 EU Member States and 4 other European countries[1].

PensionsEurope member organisations cover different types of workplace pensions for over **110 million people.** Through its Member Associations PensionsEurope represents **€ 7 trillion of assets** managed for future pension payments. In addition, many members of PensionsEurope also cover personal pensions, which are connected with an employment relation.

PensionsEurope also has **20 Corporate and Supporter Members** which are various service providers and stakeholders that work with IORPs.

PensionsEurope has established a **Central & Eastern European Countries Forum (CEEC Forum)** to discuss issues common to pension systems in that region.

PensionsEurope has established a **Multinational Advisory Group (MAG)** which delivers advice on pension issues to PensionsEurope. It provides a collective voice and information sharing for the expertise and opinions of multinationals.

What PensionsEurope stands for

- A regulatory environment encouraging workplace pension membership;
- Ensure that more and more Europeans can benefit from an adequate income in retirement;
- Policies which will enable sufficient contributions and good returns.

Our members offer

- Economies of scale in governance, administration and asset management;
- Risk pooling and often intergenerational risk-sharing;
- Often "not-for-profit" and some/all of the costs are borne by the employer;
- Members of workplace pension schemes often benefit from a contribution paid by the employer;
- Wide-scale coverage due to mandatory participation, sector-wide participation based on collective agreements and soft-compulsion elements such as auto-enrolment;
- Good governance and alignment of interest due to participation of the main stakeholders.

Contact:
PensionsEurope
Montoyerstraat 23 rue Montoyer – 1000 Brussels
Belgium
Tel: +32 (0)2 289 14 14
info@pensionseurope.eu

[1] EU Member States: Austria, Belgium, Bulgaria, Croatia, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Luxembourg, Netherlands, Portugal, Romania, Spain, Sweden. Non-EU Member States: Iceland, Norway, Switzerland, UK.