



SEPTEMBER 2025

Ethical Investing Disclosure Guidance

This guidance note is for issuers of financial products that incorporate ethical characteristics

It gives guidance on how the disclosure obligations and the fair dealing provisions in the Financial Markets Conduct Act 2013 apply when describing the ethical characteristics of financial products.

DRAFT FOR CONSULTATION

About FMA guidance

Our guidance:

- explains when and how we will exercise specific powers under legislation
- explains how we interpret the law
- describes the principles underlying our approach
- gives practical examples about how to meet obligations.

Guidance notes: provide guidance on a topic or topic theme. Typically we will seek industry feedback via a public consultation paper, or more targeted consultation before we release a guidance note.

Information sheets: provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

You might also like to check the reports and papers on our website. For example, our monitoring reports describe actual practice we are seeing and our comments on this.

Document history

This version was issued in <Date>. It updates and replaces guidance previously issued in the 2020 Disclosure Framework for Integrated Financial Products and guidance contained in the 2022 thematic review of managed fund documentation.

Contents

Introduction	3
Purpose of this guidance	3
Ethical investing terminology	3
The ethical investing environment	4
What is greenwashing?	4
Statutory duties	5
Role of market standards and taxonomies	6
Ongoing supervision	7
Ethical investing disclosure principles	8
1. Claims need to be clear	8
It is the overall impression that counts	8
Describing negative screening	9
Positive screening	13
Active ownership	13
Targets, measurement and reporting	14
Risks	16
Breach consequences	16
Change in circumstances	17
2. Substantiate your claims	18
Ethical product labels	18
Substantiating claims	19
3. Messages need to be consistent	20
Where should information be located?	21
4. Third-party involvement is effectively managed	24
Third-party data providers and delegated management	24
Third-party assurance or certification	25
Financial advice about ethical investing	28

Introduction

Purpose of this guidance

The main purposes of the Financial Markets Authority – Te Mana Tātai Hokohoko (FMA) are to promote and facilitate the development of fair, efficient, and transparent financial markets, and to promote the confident and informed participation of businesses, investors and consumers in those markets.

Investors are becoming more interested in ensuring their investments are aligned with their values. In response to this demand, issuers of financial products are increasingly applying an ethical lens to their investment decisions.

This document is about good practice for disclosure, not good practice for ethical investment. It is intended to provide information to issuers adopting ethical investment practices about how they can clearly disclose the basis for those practices and how they are going to substantiate their claims.

Information provided by issuers should make it as simple as reasonably possible for an investor to select a financial product that matches their values. High-quality disclosure will allow investors to understand the nature of the ethical claims made about products and decide whether the product is aligned with their values.

There are various local and international standards issuers can follow when incorporating ethical characteristics into their products. However, these are not universally agreed upon or applied.

This guidance is not intended to tell investors how to invest ethically¹, nor to set a standard for what constitutes ethical investment by issuers. It is intended to clarify the FMA's expectations about what good disclosure practice looks like, and give issuers a better understanding of some types of conduct that can be misleading or deceptive or likely to mislead or deceive – which may be considered 'greenwashing'.

This is not limited to statutory disclosure documents. Issuers should consider the guidance when producing any external communication, including websites, reports and marketing material.

This guidance is not intended to be a definitive statement of the law as it relates to ethical investing disclosure. Issuers will need to consider this guidance in the context of their specific circumstances.

Ethical investing terminology

The terms 'ethical' or 'ethical investing' are used throughout this guidance in a broad and general sense, to capture instances when issuers seek to incorporate value judgements as part of their investment strategy, which may be done in a range of ways. It is not intended to be a formal classification. We recognise that ethical values are subjective – what one person sees as ethical may differ from another's view.

Sometimes ethical investing involves refraining from investing in sectors considered to be damaging to the environment (e.g. carbon-intensive sectors) or societally detrimental (e.g. weapons, tobacco, gambling). Or it may involve actively directing funds towards promoting positive transformation and adaptation (e.g.

¹ Guidance to assist investors who are interested in ethical products can be found on the FMA [website](#).

DRAFT FOR CONSULTATION

investing in renewable energy generation, or in companies that have committed to sustainability performance targets (impact investing)).

Ethical investments may include integration of environmental, social and governance (ESG) characteristics into the investment process. This goes beyond simply ethical marketing (a product that incorporates ESG characteristics may not always be marketed as such) but includes all stages of the analysis and decision-making process as part of an issuer's consideration of the material benefits and risks, and relevant information to support its investment decisions. This recognises that all characteristics, including ethical characteristics, contribute to the financial return of the product.

These kinds of products are often labelled or marketed as 'green', 'social', 'sustainable', 'transition', 'responsible' or similar terms. They may include managed investment schemes such as KiwiSaver funds, bonds, and equity. We note that the terms 'responsible' and 'sustainable' are also widely used to describe the types of practices covered by the guidance.

In previous guidance, we have referred to these products collectively as 'Integrated Financial Products' due to the way they integrate financial and non-financial factors. However, this term is not commonly used in the market, and there is a wide range of ways issuers may incorporate value judgements into their investment strategies. Therefore in this guidance we want to move away from grouping all products with ethical components under a single label, and instead emphasise the fact that the specific characteristics of a product and how it is marketed are key to whether it is captured by the guidance. We do not intend to prescribe boundaries for what is or is not an 'ethical' investment product.

The ethical investing environment

What is greenwashing?

Greenwashing refers to false or misleading claims about the ethical practices associated with a particular product or issuer that make the offering appear more 'green' or socially responsible than it actually is. Greenwashing reduces consumer confidence about investing in ethical products.

The term 'greenwashing' typically refers to false or misleading environmental claims, but it can be used to describe misleading or deceptive practices about other kinds of claims, for example claims around corporate social responsibility (such as human rights commitments, also known as 'bluewashing').

A lack of clarity about how to avoid greenwashing, or a perception that regulatory or market expectations are too strict, may lead to reluctance by issuers to issue ethical products or publicise information about their ethical practices (known as 'greenhushing'). It is important for issuers to disclose the information that is material to investor decision making, which may include ethical characteristics, and it may be misleading to omit this.

This guidance explains how the fair dealing obligations in Part 2 of the Financial Markets Conduct Act 2013 (FMC Act) and the disclosure obligations in Part 3 of the FMC Act can apply to ethical claims, to help issuers avoid greenwashing in their disclosure, and ultimately improve the confidence of those participating in the ethical finance market.

DRAFT FOR CONSULTATION

Statutory duties

All the same duties apply to products containing ethical characteristics, that apply to any other kind of financial product.

The fair dealing provisions in Part 2 of the FMC Act set out standards of behaviour that those operating in the financial markets must comply with.

The fair dealing provisions prohibit:

- misleading or deceptive conduct, including conduct that is likely to mislead or deceive
- false, misleading or unsubstantiated representations
- offers of financial products in the course of unsolicited meetings.

Further detail about the FMA's approach to fair dealing is available on our [website](#).

Additionally, specific provisions apply to disclosures for regulated offers of financial products under Part 3 of the FMC Act.

For example, section 49 of the FMC Act provides that the purpose of a product disclosure statement (PDS) is to provide certain information that is likely to assist a prudent but non-expert person to decide whether or not to acquire the financial products.

Section 61 of the FMC Act provides that “a PDS must be worded and presented in a clear, concise, and effective manner.”

Additionally, under Part 8 of the FMC Act, the FMA may use a stop order in various circumstances, including to stop or prevent advertising or disclosure that confuses, or is likely to confuse, consumers or investors on matters that influence investment decisions. For example, we could issue a stop order to require an issuer to cease offering financial products, if we were satisfied that content in the PDS is “likely to confuse” investors. A key difference between the fair dealing provisions and the stop order provisions is the reference to disclosure that is “likely to confuse” – this is a lower threshold than “likely to mislead”.

This guidance provides examples of situations we consider breach the Part 2 and Part 3 requirements in the context of ethical investment disclosure. We also provide examples of what we consider to be good practice, although not adhering to the good practice examples does not amount to breaching FMC Act requirements.

Statement of investment policy and objectives

For Managed Investment Schemes (MIS), the scheme's statement of investment policy and objectives (SIPO) may be one place where information about the issuer's ethical investment strategy is set out.

Section 164 of the FMC Act requires a SIPO to adequately describe the investment policy and objectives of the scheme, including:

- the nature or types of investments that can be made and any limits on those
- any limits on the proportions of each type of asset invested in
- the methodology used for developing and amending the investment strategy, and for measuring performance against the investment objectives of the scheme.

DRAFT FOR CONSULTATION

Climate-related disclosures

The FMA is the regulator of the climate-related disclosures (CRD) regime, which requires 'large' entities, collectively known as climate reporting entities (CREs), to publish annual climate statements, in accordance with Part 7A of the FMC Act and the Climate Standards issued by the External Reporting Board.

The Climate Standards include a requirement that CREs must fairly present their climate disclosures. They must be accurate, verifiable, balanced, complete and coherent. There is also a requirement to keep records to substantiate the disclosures made in climate statements. Climate reporting entities are subject to both the requirements of the CRD Regime, and the fair dealing obligations.

This guidance may be of some help to CREs that want to avoid greenwashing in their climate disclosures. However, CREs should refer to the [CRD page on the FMA's website](#) for more specific information on preparing their climate statements.

Role of market standards and taxonomies

As ethical investing practices continue to evolve globally, industry and government bodies have developed standards or taxonomies that describe what practices an issuer making ethical claims should follow. Examples include:

- [The ICMA Green Bond Principles](#)
- [The United Nations Principles of Responsible Investment \(UNPRI\)](#)
- [The Definitions for Responsible Investment](#) from the CFA Institute, Global Sustainable Investment Alliance and Principles for Responsible Investment
- [The EU taxonomy for sustainable finance](#)

In New Zealand, there is no requirement for a product incorporating ethical practices to claim alignment with a standard or taxonomy. However, this is a common way for an issuer to communicate to investors what it means when it uses particular terminology, and can give investors confidence the ethical practices are aligned with industry good practice.

Issuers may engage a third party as part of implementing their ethical investment strategy. This may be a data provider that performs screening to determine investments that are excluded under the strategy; or it can involve a review of the product by an independent party to support claims that the product is aligned with the particular ethical standard. There are a range of certifications or reviews offered by private providers but these do not apply a common standard, and there aren't currently any specific legislative requirements for reviewers to be regulated or align with any formal auditing and assurance standards.

The New Zealand Government is in the process of developing a voluntary sustainable finance taxonomy, focusing initially on the agriculture and forestry sectors. This will be another standard that issuers may choose to claim alignment with. Market best practice continues to evolve; we encourage all market participants to keep up to date with new developments in taxonomies and standards, as well as the changing expectations of investors. Disclosure could become misleading over time if language is used in a manner that is not consistent with current market practice.

DRAFT FOR CONSULTATION

Ongoing supervision

We recognise that good practice in ethical investing disclosure is evolving. There is still a lack of standard practice and consistency. We consider this is best addressed through engagement, education and feedback, to support issuers to provide investors with clear and meaningful information.

We will consider exercising our regulatory powers where we believe that:

- conduct or advertising is materially misleading or deceptive under the fair dealing provisions
- any disclosure is materially false or misleading, or likely to mislead
- advertising for products or services is likely to confuse investors
- there is a material omission or breach under the offer disclosure provisions.

We have a range of tools within financial markets legislation to influence better outcomes or hold firms to account. See FMA's [regulatory response guidelines](#) for an overview of the range of regulatory responses and tools we may use when responding to misconduct in this area.

Ethical investing disclosure principles

These four principles are intended as a general guide to assist issuers in deciding how best to meet their fair dealing obligations. For each principle we explain what we mean in practical terms, and provide examples of situations we consider to be a breach as well as good practice we have seen.

1. Claims need to be clear

Ethical investing strategies may be complex, multi-faceted and detailed, so the risk of being unclear is real. Ultimately claims need to be clear and easily understood by investors, so they have the information they need to make an informed decision about whether the product is aligned with their ethical values.

Issuers should avoid vague, arbitrary or imprecise statements, and use plain language rather than relying on technical jargon. This is linked with obligations in Part 3 of the FMC Act, which state that PDSs must be clear, concise and effective, and accessible to a prudent but non-expert investor.

Language should also be precise – where absolute language is used, there should be no exceptions.

It is the overall impression that counts

It is the overall impression, from the point of view of the target customers or investors, that matters. Who is the audience that the claim in a document or advertisement is aimed at? What would they understand the claim to be, looking at it in context? Investors and consumers who lack investing experience or commercial acumen will be more susceptible to being misled or confused.

Both positive statements and omissions can contribute to creating the overall impression. This may be misleading if, for example, information is cherry-picked that doesn't give a complete picture, is unbalanced, omits key risks or lacks sufficient detail. It doesn't matter whether or not the omission or statement was intended to be misleading – what matters is the impression that was created. Images, font size or prominence, and layout can also influence the overall impression.

What is the product claiming it will deliver?

Issuers should disclose information that will help investors understand the underlying ethical investing strategy. This may include the meaning behind headline claims and the use of any ethical product labelling.

What does the product purport to offer beyond a vanilla financial product?

This is the benefits and related risks associated with the ethical claims the issuer is making. Disclosure about this should help investors understand the outcomes being sought by the product, so they can make a decision about whether the product is aligned with their values.

Investors should be able to understand how material the ethical considerations are to the issuer's decision-making, i.e. whether the ethical characteristics are a key or primary consideration, or only one of many factors the issuer takes into account. This is particularly relevant for MIS.

DRAFT FOR CONSULTATION

The level of detail of the ethical strategy that should be disclosed relative to the vanilla aspects of the financial product may vary depending on the significance of the ethical claims and how complex the products are. For example, products that incorporate impact investing, which aims to target specific investments with positive and measurable ethical benefits, may require more disclosure than products where ESG criteria are integrated into the investment strategy but not necessarily a primary factor in decision-making.

Misleading example: An issuer of a product called “The Green Investment Fund” advertises the sustainability criteria it takes into account when making investment decisions. It omits to disclose that the sustainability criteria are only one of a wide range of factors considered by the manager in practice – the principal factor is profitability for investors, and the fund can and does invest in coal mining companies from time to time. The advertising may create a misleading overall impression that sustainability is the single or primary factor in decision-making when in practice it is not.

Good practice: An issuer maintains a responsible investment policy, which explains how it incorporates responsible investment considerations into the investment decisions it makes. However, the issuer does not consider the responsible investment considerations to be a material or significant factor within its investment process. Therefore, the issuer does not give the financial product an ethical label or highlight these considerations in its marketing material. In its PDS and SIPO the issuer discloses to investors the existence of the responsible investment strategy and the role it plays in the decision-making process, as well as the other factors that are considered alongside it.

Describing negative screening

This includes adequately explaining the scope of any screening, e.g. what investments a fund will exclude, and any relevant thresholds. This may cover disclosing limitations to the claims in the strategy, for example:

- Is a certain percentage of the portfolio allowed to fail the eligibility criteria, targeted percentage allocations, or non-breach thresholds?
- What percentage or range of the portfolio is screened/not screened?
- Is screening carried out at a sector level (for example excluding armaments, oil, etc) or an asset class/financial instrument level?
- Do investment screens apply only to companies and sectors that are directly involved with excluded activities? Or do they also include companies that provide services to excluded activities, and/or those that are involved in sales but not production or manufacturing?

DRAFT FOR CONSULTATION

Misleading example: A MIS manager's ESG policy excludes investments in companies generating any revenue from the production of nuclear power. The policy gives investors the impression that any companies involved in the production of nuclear power will not form a part of the fund. However, several companies the fund invests in earn their entire revenue from providing critical products or services to nuclear power stations, such as key components used in cooling. In practice the manager only excludes companies that directly own nuclear power plants.

Good practice: An issuer states in its ESG policy that it screens for companies directly involved in what it has identified as undesirable business activities. It defines "directly involved" as an activity that is named in the company's business industry classification² (or similar system depending on jurisdiction). Furthermore, the policy states that exclusions do not extend to companies that may be indirectly involved, i.e. providing components for, or services to, excluded companies.

Misleading example: An issuer's ethical investment policy states that its investments exclude companies where more than 5% of turnover relates to conventional weapons systems, parts or services. However, one of the issuer's fund holdings is in a company that derives 21% of its revenue from the manufacturing and servicing of fighter aircraft engines and other components, because the screening criteria applied in practice were different from the criteria set out in the policy

² A business industry classification (BIC) code is a way of classifying business by their main activity. 'Activity' means the service or product a business provides to others. See <https://www.businessdescription.co.nz/help> for more details.

DRAFT FOR CONSULTATION

Good practice: An issuer's ethical investing policy describes its whaling exclusion in the same way as the screening criteria is applied in practice, namely that the exclusion applies to investments in companies that make any revenue from hunting whales, but does not exclude investments in companies that own businesses that sell processed whale meat, such as retail stores and restaurants. It provides additional explanations regarding some technical terms so these can be understood by the average investor.

Misleading example: An issuer advertises with headline claims on social media that it does not invest in any companies involved in the fossil fuel industry. However, its responsible investment policy states that it can make an exception to this if it considers there are other positive attributes of the company, such as showing genuine measurable commitment towards transitioning away from fossil fuels. The issuer does in fact invest in those transitioning companies. There is no disclosure in the advertisements that there are exceptions in its policy

Good practice: An issuer has made an exception for a transitioning company that falls outside of its normal policy but is on track to reduce its involvement in the fossil fuel industry. The issuer explains the rationale for this exception and the process it followed to make this decision, and publishes this detail on its website. In its advertising it includes a prominent statement that there may be exceptions and links through to the web page where the exception detail is located.

Good practice: An issuer's ethical investment strategy states that it limits investment in companies involved with fossil fuels, where the company earns more than 10% of its revenue from the fossil fuel industry. On its website, it provides a list of the companies of concern that it does not invest in, based on their degree of involvement with the fossil fuels industry, so that investors do not have to make their own judgements about the scope of the exclusion rules being applied. The issuer updates this list quarterly to ensure it remains up to date.

DRAFT FOR CONSULTATION

Where screening is carried out at an asset class or financial instrument level, there are additional considerations, for example how derivatives are treated by the fund.

While there is no established industry standard for how derivatives should be treated in ethical funds, managers may wish to consider disclosing their approach to derivatives in the SIPO, particularly where the MIS makes extensive use of derivatives. This is because the use of derivatives in a MIS may include indirect exposure to investments the fund is excluded from holding directly, which may allow investors to profit from excluded activities.

For example, while a MIS may not physically own the investments involved in the derivative, it will be impacted by changes in the value of the investment. It also relies on someone else – usually the counterparty to the derivative contract – owning the investments directly. This means the investment choices made by the Manager can create demand for the excluded assets.

Issuers should consider the following:

- Does the ESG policy extend to the underlying fund(s)?
- Do different criteria apply depending on the asset class?
- Does the screen apply to subsidiaries where they are a material shareholder, and are any thresholds used?

Misleading example: An issuer's advertising and other communications indicate that its fund holdings are screened for tobacco and alcohol investment, and that further information is provided in the scheme's SIPO. The SIPO states that screening is only performed for activities conducted at the company level, and not by subsidiaries, associates or franchises. One of the subsidiaries of a company in which the issuer invests operates a retail business that makes all of its revenue from the sale of alcohol and tobacco products. Notwithstanding the clarification in the SIPO, as the advertising and other communications do not explain that there are exceptions this creates a misleading impression that each company is screened inclusive of subsidiaries, associates or franchises.

Good practice: An issuer ensures its headline statements in advertising are consistent with, and not contradicted by, further statements in its SIPO and related documents. Where ownership thresholds apply, these are disclosed (e.g. "only entities owned 20% or more by the parent company are screened for excluded business activities").

DRAFT FOR CONSULTATION

Misleading example: A managed investment scheme's PDS and ESG policy state that in limited circumstances the scheme may invest in third-party funds, which are not subject to the ethical policy screening, and that in these instances the scheme will attempt to only invest in third-party funds that fully align with its own policy. Its social media advertising only describes its ethical screens in general terms, such as not investing in fossil fuels and tobacco, without mentioning that some assets are not subject to the ESG policy. The scheme has material exposure to non-screened assets through these funds, with 40% of the assets of the scheme invested through third-party funds. Those third-party funds include material investments in fossil fuels and tobacco.

Good practice: A managed investment scheme includes a prominent statement in its ESG policy that it does not manage underlying funds, has no control over the investment decisions, and that monitoring of exclusions is the responsibility of the underlying manager. It also discloses that investments in underlying funds are a significant portion of the scheme's assets, and that if there is a material screening-related breach the underlying fund manager will inform the scheme manager, who will inform investors. When promoting the scheme the manager refers to screens but has a prominent statement "Not all assets are subject to screening. See the ESG policy for specific details" with a link to the policy document.

Positive screening

As with negative screening, positive screening requires careful and clear disclosure. The risk of being vague and unclear is therefore heightened the more complex the strategy is.

Key components of positive screening that should be disclosed include:

- If based on sectors, the sectors that will be targeted.
- Whether the screens apply to all or part of the assets invested and, if only part, how much.
- If based on scores, where those scores come from and what the score threshold is.

Active ownership

Some issuers take a stewardship approach, where they claim to actively influence companies' behaviour through exercising their voting rights for matters such as board independence, CEO compensation, and diversity, equity and inclusion (DEI) policies. Issuers should disclose the way they exercise their voting rights, e.g. if they are actively exercising voting rights, or relying on an outsourced provider. They should

DRAFT FOR CONSULTATION

also disclose the extent to which they are able to exercise material influence based on the percentage of shares they hold.

Misleading example: A MIS manager states that it influences firms by actively exercising voting rights for matters such as board independence, CEO compensation and DEI policies. It actually relies on a third-party provider to do the voting, and follows however the provider decides to vote without making its own assessment. Investors looking for a manager that exercises full voting control over its portfolio may be misled into thinking they will receive that from this manager.

Good practice: A MIS manager states that it relies on an outsourced provider to exercise voting rights for matters such as board independence, CEO compensation and DEI policies. Although the provider makes the decision about how to vote, it has a policy that closely aligns with the manager's own responsible investment policy. The manager publishes details of how its votes have been exercised on an annual basis, both at investment level and also summarised by theme.

Targets, measurement and reporting

If an issuer is making a claim that a financial product will meet a particular target or achieve a certain outcome or outcomes, for example an environmental or social outcome, it's important to disclose the following:

- the specific intended target or outcome
- the timeframe for the target or outcome to be achieved
- explanation of how progress (or lack of progress) against that target or outcome will be measured, or alternatively that the issuer does not intend to measure progress
- whether progress against the target or outcome will be reported on an ongoing basis (quarterly, annually, etc)
- whether the issuer intends to engage an independent reviewer to verify progress reports and whether these will be publicly available.

Issuers may also report on methodology, for example:

- underlying data and metrics
- whether metrics used are from third-party providers, widely used industry standards, or based on the issuer's proprietary methodology

DRAFT FOR CONSULTATION

- risks and limitations of the methodology
- what governance, processes and systems support the issuer to achieve the outcomes or targets.

Disclosure of measurement and reporting is good practice, and can help an issuer demonstrate how it substantiates its claims.

Misleading example: A managed investment scheme's SIPO and marketing campaign claim that its strategy will reduce carbon intensity of the scheme over time, but do not explain how investors will know this is occurring. The issuer does not report to investors how it is performing against its claims over time. Because the issuer has not been keeping any metrics or reporting, it is unable to demonstrate whether there has been any change in the scheme's carbon intensity as a result of its strategy.

Good practice: The issuer states in its SIPO that it will produce a quarterly sustainability report that clarifies how the scheme is performing against its carbon-reduction goal. The reports create a record that can be used by investors to substantiate the scheme's claim over time.

Transition-focused financial products

The focus for transition-aligned investments is to help bring polluting sectors along on the journey to a net zero economy, recognising that some sectors are critical to the economy and transformation is not possible overnight.

There remains a lack of standardisation or consensus in the wider market for transition products. This means it is especially important for transition claims to be clear, so investors understand how the term is being used.

Sometimes transition-focused products may permit investment in transitioning sectors. Or they might focus on the issuer's own journey and be backed by commitments by the issuer to reach certain sustainability performance targets (for example, sustainability-linked bonds). Some issuers may make exceptions to their screening exclusions to help facilitate companies or sectors that are transitioning, which should be disclosed to investors.

Disclosure for transition-focused products can include describing:

- the basis on which the product is supporting the claimed transition
- the way that the issuer defines transitioning sectors

DRAFT FOR CONSULTATION

- any uncertainties, barriers or risks that might prevent the company or sectors from making progress as intended
- the way that the issuer will monitor the companies it invests in to ensure they remain aligned with their transition planning goals.

Risks

There may be a need to disclose specific material risks related to an ethical investment strategy that are different to a vanilla financial product. When determining risks, issuers should consider:

- What are the financial performance implications of the investment strategy?
- Could a reduced investment universe impact the financial returns investors will receive from the product compared to a vanilla financial product?
- If the issuer defaults on any of its ethical commitments is there a risk to the price the product can be sold for?
- What are the risks where the ethical principles apply only partially to a fund/assets?
- Is there a risk that the issuer may not be able to deliver on its ethical claims?

Breach consequences

Issuers should disclose whether there are any consequences if the ethical investment strategy is breached, or if the product does not achieve its intended outcomes.

- What is the procedure where a breach of the strategy is identified, and what are the consequences of a breach? What is the timeframe for action to be taken?
- Will the product lose its ethical status and cease to be labelled as 'green', 'sustainable' etc?
- Will the price at which the product can be resold be affected?
- How will investors be informed of breaches of the ethical investment strategy or of failure to achieve the product's stated outcomes?

If there are no consequences for a breach, this should be disclosed to help investors make their decision about whether to invest.

Misleading example: A MIS manager states in its responsible investment policy that it feels strongly about the planet's future and wants to take action to combat climate change. This creates an impression that the manager will not invest in companies contributing to climate change. In practice, where the manager identifies investments in its funds that are high fossil fuel producers, it notes this but takes no other action.

Good practice: An issuer updates its responsible investment policy to clearly state that it will not take any action if it identifies investments inconsistent with its policy, unless it receives a complaint, in which case it will consider whether to divest within 10 working days.

Change in circumstances

Sometimes, circumstances not anticipated by an ESG policy may lead to a lack of clarity about how the issuer will apply judgement (e.g. Russia's invasion of Ukraine).

Issuers are not expected to foresee and disclose every possible situation that could arise. However, issuers should be clear about the approach they might take to deal with unforeseen circumstances in general and whether they will try to make that consistent with their strategy.

Ethical investing is a rapidly evolving sector, and from time to time issuers may make changes to their ethical investing approach to keep up with market practices and investor expectations.

This may have implications for investors who have invested on the basis of a strategy as it was when they acquired the product. If the strategy changes in a material way without an investor's knowledge, the investor may become misled.

When they change or update their strategy, issuers should clearly explain how this will impact the management of ethical products, including:

- the method and timeliness of communication about changes to the strategy/ethical investing approach
- any changes to market standards or principles that the product claims alignment with
- the implications for any ethical labels associated with the product
- the implications for any external review or certification the product holds
- whether the price at which the product can be sold will be affected.

This should ensure investors have a chance to consider whether the changes remain aligned with their investment objectives, and can divest the product if it no longer meets their expectations.

Misleading example: A MIS manager has an exclusion for alcohol production. However, it changes its policy so that only the winemaking part of the supply chain is screened and not grape-growing, and subsequently invests 10% of its funds in companies that own vineyards. The issuer does not inform its existing customers about the change to the investment policy, meaning those who invested on the basis of the previous strategy are likely to be misled.

DRAFT FOR CONSULTATION

Good practice: The MIS manager uses its monthly communication to members to notify the change to the policy – that investor funds are being invested in vineyards – and the consequences. This gives the members the opportunity to divest the fund if it no longer aligns with their values.

Misleading example: A managed investment scheme has a policy against investing in companies that are suppliers to militaries. In unforeseen circumstances the home jurisdiction of one of the companies the scheme invests in is subject to a military invasion, and the company begins supplying technology to the military of its country. The issuer decides not to divest its holdings in this company. Instead it divests holdings in companies based in the invading jurisdiction. The fund manager tells investors it has taken an ethical position against the invasion. However, it does not inform its investors that the change in approach now means the fund holds investments in military suppliers, and does not update its policies to reflect its new position.

Good practice: When the issuer becomes aware of the military invasion, it informs investors via its regular monthly communication of the steps it is taking and the reasons why. It explains the change to its policy and that it has divested some holdings but retained others.

2. Substantiate your claims

Part 2 of the FMC Act requires issuers to have reasonable grounds for any ethical claims they make about the product at the time the claim was made. If required, they should be able to support those claims with evidence and facts. Anecdotal evidence, unsupported opinions and/or assumptions do not constitute 'reasonable grounds'.

This principle is closely related to the first principle "Claims need to be clear".

Ethical product labels

Some products use ethical language such as 'green', 'sustainable' or 'social' in their product name.

DRAFT FOR CONSULTATION

Our view is that ethical labels are likely to give investors the impression that a product's ethical factors are a primary or key consideration or objective of the product. This is the case regardless of whether the ethical features form part of the contractual terms of the product or not. Therefore issuers should take care to explain the basis on which they are using the label and ensure their practices align with that.

We consider a product's label should be clear and accurate, with ethical labels reserved for products where ethical characteristics are a significant part of the strategy. For example, it may be appropriate to use an ethical label on a managed investment product where the manager first selects the companies that meet its ethical policy, then from that investment pool selects the companies that generate better financial return.

This guidance is applicable to all products that have applied ethical considerations in their investment strategy, regardless of how they are advertised, described or marketed.

Substantiating claims

It is good practice for issuers to demonstrate that they are doing what they say they will do.

This could be through:

- **External review/assurance services**, which may provide endorsements through certification or membership services. An external review may include:
 - Providing a second opinion that the product aligns with particular market standards (such as the ICMA Green Bond principles).
 - Independently verifying progress against certain sustainability targets or outcomes associated with the product.
 - Independently verifying the governance and management of an issuer's products to ensure funds are being allocated or managed as intended.

See page 24 for more information on the role of third parties.

- **Measurement and reporting** on claims:
 - If an issuer states that it intends to measure and report on its outcomes, its measurement and reporting should be timely and accessible, and include enough detail for investors to understand how the issuer is delivering on its claims.
 - Issuers should consider the frequency of reporting and the impact on investors. If an issuer breaches or makes a change to its strategy but this is only disclosed in annual reporting, this may result in investors staying in a product for longer than they would have if they had been informed earlier.
 - If a product is aligned with a third-party standard, there may be specific measurement and reporting requirements under that standard.
 - Disclosing the underlying data source is good practice and may assist with substantiating claims.

DRAFT FOR CONSULTATION

Misleading example: A managed investment scheme advertises a new fund, claiming it has a target to deliver the North Island's transition to 100% renewable energy by 2040. The fund will contribute to this by funding some minor renewable energy generation projects. However, the scheme has no evidence to substantiate any ability to deliver on that claim, and this target is not mentioned in its investment strategy or other documents.

Good practice: The above issuer changes its public statements to make it clear that the fund is intended to play a role in New Zealand's renewable energy transition, but that it does not intend to be the only vehicle for delivery. It also ensures its PDS, SIPO and responsible investment policy accurately describe the actions it is taking.

Misleading example: A managed investment scheme claims in its responsible investment policy that it is transitioning towards a net zero carbon footprint in all of its managed funds by 2050, and will report annually on progress. Five years after making that claim it has not reported on progress and the carbon footprint has not changed.

Good practice: A managed investment scheme releases an annual report, which it sends to investors, tracking its progress towards net zero and including graphs and the actions the manager has taken towards that goal. Even though the carbon footprint has not changed the manager explains how its strategy should see future reductions.

3. Messages need to be consistent

Issuers should ensure that messaging across all platforms is consistent, accurate and does not create a misleading impression. This includes using consistent terminology, tone, and textual, audio or visual content. Any applicable exceptions or qualifications must be prominently placed and clearly communicated.

DRAFT FOR CONSULTATION

Clear and precise definitions should be applied uniformly across all communications. For example, if an issuer states it excludes investments in companies ‘involved in the extraction of fossil fuels,’ this phrase should be used consistently across all disclosure and promotional materials. Issuers could consider providing a standardised glossary of terminology.

Misleading example: An issuer’s investment policy states that it excludes investments in companies “involved in the extraction of fossil fuels”. However, across its marketing platforms its advertising clearly states that it “does not invest in fossil fuels”. It does invest in several companies that own petrol stations. Investing in retail of fossil fuels is inconsistent with the marketing.

Good practice: An issuer ensures the headline statements it uses in advertising are not inconsistent with the detail of its policy. In advertising it states “We limit investment in fossil fuel extraction” and links to its ethical investment policy, which contains the exclusions and limitations on its investments. In its investment policy the issuer sets out different activity-based categories and explains that it does not invest in companies that derive revenue from fossil fuel extraction, but that it does invest in companies that derive revenue from fossil fuel distribution.

Good practice is for issuers to take particular care when directing investors to third-party websites for additional information. Key details should not be omitted from the issuer’s own messaging with the expectation that third-party websites will fill in the gaps. If a third-party website is referenced, the issuer should clearly explain what information is provided there and why.

Any linked content must be correct, directly accessible and easily located.

Where should information be located?

Ethical messaging may be spread across various sources. Depending on the type of product, this may include a PDS, a SIPO, a term sheet, a responsible investment policy or a sustainability framework, and information on an issuer’s website and in advertising.

The level of detail will likely vary depending on the medium, but the messages should not contradict each other.

DRAFT FOR CONSULTATION

Product disclosure statement

A PDS may not always contain all the detail relevant to the issuer's ethical investing approach and related risks. Instead, an issuer may set out more general information about how it intends to manage and govern its ethical products in a sustainable finance framework, responsible investment strategy, or similar document. This may include additional detail that is too challenging to disclose in a PDS due to word limits.

Statement of Investment Policy and Objectives

For MISs, information specific to an individual fund should be set out in the SIPO. A SIPO should provide a complete standalone picture of the investment policy and objectives of a MIS. The requirements are less prescriptive than for a PDS, so SIPOs are often used by Managers to articulate their ethical investment policy to investors.

This may be supplemented by a separate ethical investment policy. The SIPO may incorporate information by reference to another document, but still needs to contain sufficient detail to adequately explain the ethical investment policy and objectives.

Misleading example: An issuer makes a post on social media announcing it has changed its strategy to follow the UNPRI. This resulted in some material changes to the issuer's investment holdings. However, the issuer did not update its SIPO at the same time to incorporate its new approach. The SIPO no longer reflects the investment policy and objectives, so does not comply with section 164 of the FMC Act.

Good practice: When an issuer updates its ethical investment strategy, it makes corresponding changes to its SIPO, and uploads them onto the Disclose Register. Then it announces the changes via advertising and social media, and provides investors with a link to the SIPO where they can find out more about the strategy.

While the PDS and SIPO represent an issuer's legal obligations, there are other ways issuers commonly supplement their ethical investing disclosure, including:

Strategies, policies and frameworks

Issuers may disclose information that is non-specific to a particular offer, but may apply to their entire ethical approach. This could include an investment strategy, and a sustainable finance framework, a green bond framework, a responsible investment strategy, or similar. This information should be updated to reflect any changes in the approach, and incorporated by reference in a PDS and a SIPO. It should also be filed on the Disclose Register as Other Material Information to assist investors in accessing the full suite of relevant documents explaining the investment.

DRAFT FOR CONSULTATION

Website content

Issuers should consider consolidating all relevant information on their website, which can be linked in a PDS to help investors find it before making an investment decision.

Having information about the product's ethical investment strategy on an issuer's website promotes accessibility, as this is one of the key places investors are likely to look for information. However, it should not be the only place where this information is disclosed, as this will not meet a fund's disclosure obligations under the FMC Act. Information on a website can be easily changed, leaving investors unable to retrieve previous versions.

Where information is made available on an issuer's website and linked to in disclosure materials, it is important that hyperlinks are kept up to date if there are changes made to the website.

Website information should not contain more detail than formal disclosure documents.

Material documents should still be uploaded to the Disclose Register. This will allow investors to see changes in approach over time.

Advertising

The FMA's guidance note [Advertising offers of financial products under the FMC Act](#) provides general guidance on our expectations around advertising. There are also particular matters an issuer should consider when advertising a product with ethical characteristics.

Advertising typically contains a summary of key messages. This shorter format increases the risk of creating a misleading impression by omission, such as where headline statements in advertising do not reflect the full detail of the strategy or policy.

When advertising on platforms with length or space limitations, issuers should take care to ensure messaging remains accurate and does not omit important details that could pose a risk of misleading investors. Marketing materials need to present concise messaging with a clear indication of any limitations or qualifications on the message conveyed, and where more detailed information can be found. Issuers should not rely on subsequent qualifying information to correct an otherwise inaccurate headline claim.

Advertising should be presented in a balanced way, and not overplay the importance of ethical characteristics to the investment product. Conversely, the presence of ethical characteristics shouldn't be underplayed if those characteristics would be material to an investor's decision-making.

Misleading example: An issuer's ethical investment policy excludes investment in companies that derive more than 5% of their revenues from tobacco. The fund manager launches an advertising campaign on social media claiming that the fund does not invest in tobacco. The statements are followed by a pictogram showing a crossed image of a packet of cigarettes. There is a small footnote stating "Refer to the investment policy" at the end of the post. These advertisements are misleading due to not consistently or prominently highlighting the limitations in the ethical investment policy.

Good practice: An issuer advertises that it limits exposure to the tobacco industry when selecting investments. Its advertisements direct investors to its responsible investment policy, which sets out the details of its screening criteria, and the revenue thresholds that apply, including that the issuer does not invest in companies that earn more than 5% of their revenue from the tobacco industry.

4. Third-party involvement is effectively managed

Third-party data providers and delegated management

Issuers of ethical products may implement their strategies either using their own proprietary methodologies, or through relying on third parties (or a mixture). Third-party involvement could range from supplying data used in applying ethical investment screening criteria, to a delegated management approach.

Regardless of whether the issuer has delegated aspects of its strategy or data collection, the issuer retains the responsibility for fulfilling its obligations under financial markets legislation. When outsourcing, issuers should be satisfied that third parties are capable of performing the service to the required standard. It may be good practice to have internal policies and processes to spot-check the accuracy of third parties' data, exclusionary screening tools and consistency of message across all offer documents, including website and advertising.

Misleading example: An issuer has a policy that excludes companies with greater than 10% revenue from alcohol sales. The issuer changes to a different third-party data provider, which uses a different screening methodology to the previous data provider. The new methodology does not strictly align with the policy and this results in the issuer unintentionally investing in a company that has 60% revenue from alcohol sales.

Good practice: When changing data providers, an issuer compares the differences in the screening methodology employed by the data providers, and updates its ethical investment policies to ensure they align with the third-party data provider's screening practices.

DRAFT FOR CONSULTATION

Where a responsible investment strategy relies on third-party data, disclosure of the data provider(s) is good practice as it can help investor decision-making. While detailed information about the technical screening criteria may not always be helpful to a retail investor, an issuer can direct investors to where they can find out more about the methodology being applied, if investors wish to explore this further.

When a responsible investment strategy relies on a delegated management approach, the issuer should disclose the extent to which the underlying responsible investment policy is under its control.

Issuers should ensure there are no discrepancies between their stated policy and the approach third parties are taking in practice. Where a policy applies vague or unclear terminology, this may lead to differences in interpretation between the issuer and the third party that may go unnoticed.

Good practice: An issuer discloses the third-party data providers it works with, as well as a plain-language description of the measurement process and criteria applied. The issuer provides a link to the methodology used by the third parties and the screens they are applying, so investors can explore the technical detail further if they wish. They also explain how they engage third-party managers, and name the managers they are using and for which activities.

Misleading example: A fund's bond and equity portfolios were screened for excluded activities using different exclusion rules. The equity portfolio screens for weapons manufacturers but the bond portfolio does not. However, on the issuer's website, the issuer states that all of its investments were screened for weapons manufacturers. The fund is invested in weapons manufacturers through its bond investments, but this is not disclosed to investors.

Good practice: An issuer provides specific disclosure about what screens are applied for different investment classes. If any inconsistencies between products are picked up, this is highlighted to investors.

Third-party assurance or certification

Issuers may obtain external assurance or certification services for their products. This provides investors with an independent opinion to verify the credibility of ethical strategies or claims.

DRAFT FOR CONSULTATION

Issuers should disclose the general nature and scope of any assurance or certification. This may include:

- whether the review will assess the financial products for alignment with market principles or taxonomies, and if so, which ones
- whether the product-specific criteria developed by the issuer diverge from the certifier's general definitions
- the subject of the review, so that investors can understand which of the following will be reviewed for alignment with ethical principles:
 - the issuer's sustainable/ethical investment strategy or framework and the governance of their strategy or framework
 - the underlying projects, assets or activities the financial product invests in
 - the selection and calibration of the issuer's targets and outcomes, e.g. whether they are material and ambitious, above and beyond normal business
- whether the issuer's progress against its outcomes and targets will be externally verified
- the timing and frequency of the external review, e.g. whether it is pre-issuance or post-issuance, and whether it will be reviewed on a recurring basis throughout the life of the product
- whether the certification or assurance will expire, and at what points it may need renewal
- whether the review report will be made publicly available, and where it can be/will be located
- who is carrying out the review
- a description of any amounts agreed to be paid, or any benefits agreed to be given, to the reviewer, and an estimate of the total of those amounts or total value of those benefits.

Depending on the nature of the review, the issuer may consider which of the above detail is material and should be disclosed in its PDS (with further detail linked to at the third party's website), or in its responsible investment strategy or SIPO. Disclosure should be guided by what is required to clearly communicate the issuer's ethical investment practices to investors.

Investors may rely on a product's external assurance or certification, but without clear disclosure, may not understand the nature of what is being certified. It is also good practice to link to where an investor can obtain more detail about the scope, such as the certifier's website.

Misleading example: An issuer states on its website and in its ESG policy that its approach is in compliance with the UNPRI. However, the issuer is not a signatory to the principles and its approach follows most, but not all, aspects of the principles. The issuer does not disclose this.

DRAFT FOR CONSULTATION

Good practice: An issuer's investment approach is informed by the UNPRI. While this framework guides the issuer's strategy, it is clearly disclosed on its website and in its ESG policy that the issuer is not a UNPRI signatory and that its policy does deviate from the principles in certain material aspects. The ESG policy explains those deviations.

Misleading example: An issuer advertises that it has been certified 'sustainable' by an independent reviewer and therefore can be trusted to make ethical investment decisions. However, it does not disclose that the independent reviewer has only assessed the issuer's responsible investment strategy for alignment with sustainable finance market principles, and has not assessed what the issuer is actually doing and whether that aligns in practice with what the issuer claims in their strategy. In practice the issuer does not always follow its certified strategy.

Good practice: An issuer advertises that its green bond framework has been independently reviewed and found to meet the requirements of the ICMA Green Bond principles. It accurately describes the nature and scope of the review, including that the framework aligns with the principles, but that the reviewer has not assessed the allocation of net proceeds for compliance with the framework.

Financial advice about ethical investing

As the market for products claiming ethical characteristics has grown, so has the need for investors to obtain advice about these products. Ethical strategies can be nuanced and complex, and quality financial advice can help investors navigate these complexities, ensuring they make informed decisions and receive ongoing support.

Ultimately the general duties of financial advisers apply when giving advice about options for ethical investment.

If you give financial advice to retail clients, you must:

1. Take reasonable steps to ensure your clients understand the nature and scope of the advice being provided, including any limitations about that. For example, you must clearly explain whether your advice covers the full spectrum of ethical investment options or only a subset (i.e. if you're only able to give advice about certain products or specific ethical criteria), so clients understand the boundaries of your recommendations.
2. Where there is a conflict of interest you must give priority to your client's interests. Ethical investing often involves strong personal values. If a client prioritises avoiding a specific exposure over another ethical consideration, your advice should reflect those preferences.
3. You must exercise care, diligence and skill when advising on ethical products. These products can be complex, with varying standards and inconsistent labelling. Take the time to understand the methodologies behind ESG ratings, green bonds or impact funds, and conduct due diligence to ensure the products you recommend genuinely align with the ethical claims they make and are suitable for the client.
4. Comply with the Code of Professional Conduct for Financial Advice Services requirements for ethical behaviour, conduct and client care, and meet the competence, knowledge and skill requirements. For example, treating clients fairly is about being transparent about the limitations of ethical investing products you recommend and not taking a one-size-fits-all approach.
5. Only recommend financial products to clients that are offered in compliance with the FMC Act and its regulations.
6. Ensure you follow the disclosure regulations and that any information you make available to clients is not false, misleading or incomplete.

More information for financial advisers is available on our [website](#).

