Consultation Response: Sustainable Investment Product Labels

CFA Society Australia and **CFA Institute** welcome the consultation by Treasury into Sustainable Investment Product Labels as part of the Sustainable Finance Roadmap.

Context and purpose are two important dimensions to the issues being addressed in this consultation. Sustainable investment products are made available within the broader Australian investment funds markets, one of the largest managed funds markets in the world. The issues of comparability and labelling are not unique to sustainable finance and have been addressed to varying degrees within managed investments through existing regulation and market practices. At a system level, primacy of regulation must stay with fostering trust in the system and protecting investors against harm. Attracting and allocating capital to initiatives that "deliver a sustainable, prosperous economy" is important and it is clear that regulation taken too far can act against this purpose by siphoning resources away from productive activities or acting as a disincentive for organisations to participate in the market.

We would hope to see an increase in the availability of sustainable investment options and take up of these by investors, and see this as a valuable outcome alongside the ability of retail investors to identify, compare, and make informed decisions about sustainable investment products. The current situation is hindering issuance of sustainable investment products and this work has the potential to facilitate sustainable fund flows and encourage fund managers to provide more product options to investors.

As well as those seeking to invest directly, all Australians are retail investors through their superannuation funds and need to make decisions on which superannuation fund and which investment options to select. This makes this work widely relevant.

We support a principles-based approach to this work, with clear rules that facilitate compliance and, where necessary, support enforcement.

While guidelines will be important and labels can play a critical role, it is important to recognise the importance of disclosure in creating a system that reaches beyond a name or a label but a system that promotes third-party research and analysis that can respond to a changing market and promote a deeper understanding of the issues. When done right, this would make sustainable investment more accessible, credible, and effective. We would like to share two pieces of work by the global CFA Institute that address the issues of fund classification and product disclosure standards, in addition to the CFA Institute, GSIA and PRI *Definitions for Responsible Investment Approaches* that is cited in the consultation paper. We have drawn on these papers, as well as the expertise of our CFA charterholder members, in preparing our submission.

- How to Build a Better ESG Fund Classification System | RPC
- Global ESG Disclosure Standards for Investment Products

Chris Fidler, Chief of Staff, Global Industry Standards, leads the work of CFA Institute in this area, and has participated in consultations in this area globally, including serving on the Disclosures and Labelling Advisory Group in the development of UK's Sustainability Disclosures Requirements (SDR). We would like to offer to arrange a meeting with Treasury to discuss his insights further.

Consultation Questions

Policy Problem

Question 1: In the context of existing regulatory settings and disclosure requirements, what is the role for sustainable financial product labels?

In a market where sustainability terminology is inconsistent and often confusing, labels are a critical tool to translate complex claims into plain, comparable categories. CFA Institute has highlighted that a classification framework should serve investors, fund managers, regulators, and researchers, while avoiding the additional confusion that arises from overlapping ESG terms (*How to Build a Better ESG Fund Classification System*, 2024, pp. 11–13).

This need for clarity is reinforced in guidance provided by CFA Institute, PRI and GSIA, which sets out integration, screening, stewardship, thematic investing, and impact investing as the core approaches (*Definitions for Responsible Investment Approaches*, 2021, pp. 2–3). Establishing and applying consistent definitions not only reduces investor misunderstanding but also provides a recognised foundation for building an effective and credible labelling system.

Labels also play a central role in reducing the risk of greenwashing. The recent *ASIC v Mercer* case illustrates how broad or selective sustainability claims can mislead investors. CFA Institute stresses that credible classification must be anchored in observable, functional features of funds, ensuring that product names and marketing are aligned with actual investment practices (*How to Build a Better ESG Fund Classification System,* 2024, pp. 65–66). Grounding labels in these observable features gives investors greater confidence that sustainability claims reflect reality rather than marketing language.

A key value of a label is ease of use for retail investors. Not all individual investors have the time or expertise to pore over lengthy prospectuses and sustainability credentials for each fund. A label can instantly communicate that a product meets a recognised sustainability standard, translating the complex effort performed in disclosures and due diligence into a simple yes or no signal. This is especially helpful if there is a proliferation of green and sustainability themed funds. A trusted labelling system can cut through the jargon by highlighting credible products.

However, labels should be seen as a complement to, not a substitute for, disclosure. As an example, CFA Institute's *Global ESG Disclosure Standards for Investment Products* are built on the principles of fair representation and full disclosure and set out that information must be **complete, reliable, consistent, clear,** and **accessible** (CFA Institute, 2021, Preface vi–vii; p. 1). Labels can provide investors with a simple entry point to understand a product's sustainability characteristics, while detailed disclosure offers the evidentiary basis. Used together, labels and disclosure strengthen market integrity, improve trust, and reduce the risk of greenwashing.

In addition to labels and disclosures, there should be well-defined rules on terminology used in fund names. This is something international regulators have been focusing on. For example, the U.S. Securities and Exchanges Commission (SEC) expanded its Names Rule in 2023 so that any fund name suggesting a sustainability focus must invest at least 80% of assets in line with that focus. The European Securities and Markets Authority (ESMA) issued guidance that funds using terms such as "sustainable" or "ESG" in their names should meet minimum sustainability criteria (such as a certain percentage of sustainable investments) to back up the claim. The UK's Sustainability Disclosure Requirements (SDR) goes one step further: if a fund does not qualify for any sustainability label under the new system, it will be restricted from using ESG-related terms in its name or marketing. This linkage effectively ties naming rules to the labelling regime – only genuinely sustainable products should be marketed as such.

As seen from the above, labels play a critical role and are most effective when integrated into a comprehensive regulatory framework that includes rigorous disclosure requirements and robust naming standards. When transparency and accuracy are enforced, labels can provide an additional layer of clarity, and act as a concise signal of quality and commitment. When done right, this would make sustainable investment more accessible, credible, and effective.

Question 2: Should any new requirements apply to all financial products that make a claim or state a sustainability or similar objective other than, or in addition to, maximising financial returns?

Any financial product that makes a sustainability claim should be substantiated, and subject to clear labelling and disclosure requirements. Without consistent rules, funds can use terms such as “green” or “responsible” selectively, which risks misleading investors. CFA Institute highlights that classification systems must serve investors by reducing confusion in ESG terminology and ensuring comparability across products (*How to Build a Better ESG Fund Classification System*, 2024, pp. 12–13). The definitional work undertaken by CFA Institute, PRI and GSIA reinforces this point, identifying integration, screening, stewardship, thematic investing, and impact investing as the globally recognised approaches that should be applied consistently across markets (*Definitions for Responsible Investment Approaches*, 2021, pp. 2–3).

A universal requirement would also strengthen trust in the market. When all products making sustainability claims are held to the same principles of fair representation and full disclosure, as set out in the *Global ESG Disclosure Standards for Investment Products* (CFA Institute, 2021, Preface vi–vii; p. 1), investors can make direct comparisons between offerings. This reduces the scope for greenwashing, ensures that marketing aligns with portfolio reality, and provides investors with confidence that claims are credible and based on evidence.

The reason we believe all marketing claims must be substantiated is that it is foundational to consumer protection and market integrity. For financial products, any assertion—whether in promotional materials, fund names, or investor reports—must be backed by documented data and methodology. For example, regulators like the UK’s Financial Conduct Authority (FCA) require terms such as “impact” meet strict criteria, including a clearly defined sustainability objective, a robust theory of change, and measurable outcomes.

Similarly, if a product has a sustainability objective, that objective must be clearly stated. Vague or aspirational language invites greenwashing and undermines trust. The strategy for achieving the objective should be explained in detail, including the investment approach, screening criteria, and any engagement or stewardship activities. Under the EU’s Sustainable Finance Disclosure Regulation (SFDR), funds must disclose how they integrate ESG factors and whether sustainability is a binding objective.

It is also important to outline both financial risks (regulatory shifts, stranded assets) and non-financial risks (reputational risks) if objectives are not met. Disclosures should address data gaps, measurement challenges, and unintended consequences. As noted in recent leading guidance, funds must demonstrate active management of adverse impacts and avoid exaggerated claims.

International Context

Question 3: What aspects of international regimes should the Government consider for Australian application?

a. *Is there merit in incorporating additional rules around the type of information required to be disclosed to consumers about sustainability characteristics, similar to the UK's consumer-facing disclosures requirement?*

Experience in other jurisdictions shows that effective regimes combine clear labelling categories, consumer-facing disclosures, and anti-greenwashing provisions. The UK SDR offers four sustainability labels with a principle-based approach and consumer-facing disclosures to help consumers understand key sustainability features. The US Names Rule requires funds to invest at least 80 percent of assets in line with funds' names. The EU SFDR classifies funds into Article 6, 8, and 9 categories based on their sustainability objectives. All three jurisdictions include anti-greenwashing measures, with the UK's rule applying to all FCA regulated firms.

As noted, in question 2 rigorous disclosure requirements are critical, enabling labels to provide an additional layer of clarity and act as a concise signal of quality and commitment. The combination of effective disclosures and labelling would make sustainable investment more accessible, credible, and effective.

We support an approach with clear labelling categories and mandatory plain-language consumer disclosures. The CFA Institute Global ESG Disclosure Standards for Investment Products set out a voluntary global set of standards for disclosures.

Labels should require that a majority (>50%) of assets be invested in line with the stated strategy, with the actual percentage to be disclosed. The actual threshold above 50% would be at the discretion of the product issuer, to allow for different asset classes (eg fixed income may have a lower threshold than equities), however must be disclosed. In addition to the disclosed per cent of assets invested in line with the stated strategy, the product must not include holdings that contradict the strategy.

Question 4: Is international interoperability important for Australian sustainable investment product labelling?

International operability is important. The ability for products to be made available across jurisdictions, without the need to reclassify or relabel, will reduce costs and lead to greater availability of investment products. As the market evolves, harmonization or mutual recognition of labels may become important. International organisations such as IOSCO have already discussed best practices for sustainability disclosures; similar coordination could happen for labels to ensure the labels of one jurisdiction align in spirit with another's.

The framework should map to international categories to allow for recognition arrangements for funds already meeting EU SFDR or UK SDR requirements, reducing parallel compliance obligations for global managers. Phased implementation (with larger managers first) would ensure the new Australian labelling regime remains aligned with international standards while positioning Australia as a reliable market for sustainable investment products.

Designing standardised labelling

Question 5: Do the Responsible Investment Approaches (identified in Table A), UNSDG and PRI cover the field for sustainable investment approaches? Are there others that should be considered?

The list of definitions set out in the CFA Institute paper titled "Definitions for Responsible Investment Approaches," was not intended to be comprehensive of all the ways that sustainability considerations could be incorporated into investment processes or other activities undertaken in the course of carrying out fiduciary duty.

However, Exhibit 4 in a subsequent CFA Institute paper "How to Build a Better ESG Classification System" is intended to do just that. To avoid confusion, it gives a qualitative description of the various approaches, identifies which activities are in scope when taking each approach, and lists the terms that the industry has used to describe the approaches. It may not list every single term that is used, however. For example, occasionally one sees reference to "ESG tilt", which depending on how it is implemented could refer to row 4 or 5 in the table reproduced below.

Exhibit 4. List of ESG Approaches

Approach for Taking ESG Information, Issues, and/or Conditions into Account	Relevant Investment Process Step or Activity	Terms Used to Refer to the Approach
Design and implementation of the investment analysis and decision-making process such that there is ongoing consideration of ESG factors with the aim to improve risk-adjusted return.	Investment analysis and decision-making steps of the investment process	ESG integration
Establishment of rules based on defined ESG criteria that determine whether an investment is permissible.	Definition of the investment universe; asset selection step of the investment process	ESG screening, negative screening, positive screening, best-in-class screening, norms-based screening, exclusion, inclusion
Tracking of an index that has rules based on defined ESG criteria as part of its construction methodology.	Benchmark selection; asset selection and portfolio construction steps of the investment process	ESG index/ESG benchmark
Establishment of portfolio-level allocation targets (and/or constraints) for investments that have ESG characteristics or are associated with ESG trends.	The portfolio construction step of the investment process	ESG focus fund, ESG thematic fund
Establishment of targets (and/or constraints) for aggregate portfolio-level ESG characteristics.	The portfolio construction step of the investment process	ESG focus fund, ESG thematic fund
Establishment of policies to engage current or potential investees, policymakers, standard setters, and/or non-issuers with the aim of improving practice on an ESG issue, changing an environmental/social outcome, or improving public disclosure.	Ownership policies, processes, and decisions	Engagement, active ownership, shareholder action, advocacy
Establishment of policies to use investor rights and influence to protect and enhance overall long-term value for clients and beneficiaries, including the common economic, social, and environmental assets on which their interests depend.	Ownership policies, processes, and decisions	Stewardship
Setting an objective to generate positive, measurable impact alongside an objective to deliver a certain risk and return profile.	Definition of the fund's objective; the investment process; ownership activities	Impact investing, community investing

a. Are any of these approaches inappropriate? If so, why?

None of the approaches are inappropriate per se. However, in our opinion, a product that uses ESG integration as an approach, and uses no other approaches, should not be named, labelled or classified as "sustainable".

(In Exhibit 8 of How to Build a Better ESG Classification System, such a product would be in Group Q. Our rationale for this position goes back to the original conception of ESG integration in the Who Cares Wins paper, 2005. It argued the consideration of ESG risks and opportunities within a framework of risk-return optimization can have positive externalities. The classic example is pollution reduction. If a company reduces its pollution, it can reduce legal, compliance and reputation risk. This benefits shareholders, but it also benefits the impacted ecosystems and populations.)

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b. What are the merits and deficiencies of each approach?

The merits and deficiencies or each approach depends strongly on an investor's objectives and preferences and the details of implementation. Any claims that one approach is universally better than another is, in our view, predicated on unstated assumptions.

c. Should the approaches be ranked on their ability to deliver sustainable outcomes?

No. A ranking would require a clear and robust definition of what a "sustainable outcome" is. We believe this would be challenging given how hard it is to define "sustainability" across the range of economic activities that investors fund. Also, it would require a way to measure the degree to which strategies actually deliver sustainable outcomes. We know of no robust and agreed-upon approach for doing this. Thus, we don't see a ranking as a practical, or perhaps even feasible, undertaking.

Question 6: Should allowable investment approaches be prescribed in legislation, or left for industry to define?

We do not think that legislation should dictate allowable approaches because such an approach would limit innovation. It would be better to prohibit approaches that cannot produce the characteristics of a sustainable product. The only scenario that should be restricted is marketing a product as "sustainable" when it uses ESG integration and only ESG integration (as discussed in our response to question 5).

Additionally, legislating the permissible/impermissible approaches does not fully solve the problem. It is possible, for example, for a fund to exclude non-sustainable economic activities but to set the threshold such that it excludes no investments from the investable universe. For a fund that tracks an index, the portfolio of the fund would be virtually identical to the index and retail investors would rightly question why the fund was marketed as "sustainable."

Regulators in other markets have addressed this problem by requiring that a minimum proportion of the portfolio (typically >70%) must be invested in securities that are "sustainable." In the EU, the criteria for what is sustainable is dictated by the EU taxonomy. In the UK, SDR simply says a "credible standard." In our response to question 3 we have set out our view that the percent range should be broad to allow for different asset classes, should constitute above 50%, and the percentage should be disclosed.

Question 7: Which approach can best improve the confidence of Australian investors Which options best help investors to identify, compare, and make informed decisions about sustainable investment products?

Refer to our responses elsewhere in this paper that set out our views on the best approaches to labelling, naming, and disclosures.

Triggering the requirement

Question 8: What should determine when product labels apply to a financial product? What are the benefits and costs of:

a. applying labels to all financial products regardless of sustainability claims?

b. applying them only to products that market themselves as sustainable or similar?

As outlined in question 5, product labels should not apply to financial products using ESG integration without any of the other responsible investment approaches. In the investment decision-making process ESG factors should be considered alongside other factors that may affect risk-adjusted returns, whether the product has sustainable objectives or not.

The potential additional costs involved in labelling – noting the costs will vary depending on the labelling requirements – should only be incurred for products marketing themselves as sustainable or similar. Product labels should be voluntary with restrictions preventing those not adopting labels from using green or sustainability-related terms in their names and marketing. There is no value add to retail investors of broader labelling requirements across all financial products.

Product labelling requirements should apply to all investment products, including those offered within superannuation.

Question 9: Which approach would best address issues of greenwashing and/or greenhushing?

Neither a universal disclosure regime nor a labelling system will, on its own, completely address the issues of greenwashing or greenhushing. The most effective route is a hybrid approach that requires baseline disclosures for all products, and reserves formal labels only for products that market themselves as sustainable and meet clear, objective tests, backed by anti-avoidance rules and phased assurance.

A simple, low-cost disclosure baseline ensures managers cannot avoid scrutiny by staying silent. All products would report material sustainability exposures, giving investors comparable, decision-useful information and providing regulators with market-wide data to identify emerging systemic risks.

Formal product labels would apply only to products that both (a) market sustainability claims and (b) meet verifiable eligibility criteria: an explicit objective, a published methodology with measurable KPIs, and a quantitative allocation/alignment threshold.

We propose that verification or certification of labels is optional – a product issuer may use a label so long as it is assessed internally separately to the investment process, and the appropriate disclosures are made to justify the label. Optional external verification would be an additional step that would add weight to claims and could be encouraged.

To protect smaller managers and simple products, the regime should be phased and proportionate: disclosure first, assurance later, with streamlined templates or longer timelines for smaller firms. Coupled with clear consumer guidance on what each label means, this approach delivers the comparability investors need and the flexibility the market requires.

Investor education is important in the context of greenwashing. A label only helps if investors recognize and trust it, hence there is a need to build consumer awareness of what the label means. This means investing in educating the public on what the labels signify and how they should be used. Clear communication is key: labels indicate adherence to sustainability standards, and do not provide information about returns or risks. Without widespread investors awareness, a label's effectiveness in combatting greenwashing would fall short.

Question 10: What features of a financial product should trigger a labelling requirement?

a. Should particular words or terms be specified?

Product or fund names and terms used in marketing could trigger the need for labelling requirements to be met. Terms including sustainable, green, climate, net-zero, impact, responsible, ethical, ESG, and others could be considered as requiring labelling and related disclosures. Flexibility is required as terminology will evolve over time.

b. Should it be based on a threshold such as per cent of product invested under a sustainable investment approach or objective?

If using a per cent of product invested under a sustainable investment approach or objective, the percentage should be flexible or low enough to accommodate a range of different asset classes (ie not only equities), with the fund manager to disclose the actual position within the acceptable range.

Labels should require that a majority (>50%) of assets be invested in line with the stated strategy, with the actual percentage to be disclosed. The actual threshold above 50% would be at the discretion of the product issuer, however must be disclosed. In addition to the disclosed per cent of assets invested in line with the stated strategy, the product must not include holdings that contradict the strategy.

Question 11: Should evidentiary requirements underpinning labelling be prescriptive, principled or a mixture of both?

In our view, a **mixed approach** is most appropriate: prescriptive minimum evidentiary requirements to ensure comparability and verification, combined with principle-based narrative to allow managers to explain methodology, judgement, and forward-looking strategies.

Developing technical standards requires a significant investment of both time and effort to ensure every possible sector and investment scenario are covered. A principles-based regime is simpler to develop but requires interpretation. This introduces subjectivity and variation in products that could lead to an erosion of consumer trust. An ideal scenario would therefore use a combination of both.

Looking internationally, the EU's SFDR and Taxonomy regulations provide technical examples of such an approach. There are a small set of principles – e.g., "do no significant harm" – and a large set of technical criteria by sector/industry. Investments that meet the technical criteria are considered sustainable while those that do not must apply the principles. In the UK, the SDR applies quantitative tests for certain label categories. These demonstrate that without minimum data points, comparability and assurance are difficult to achieve.

A narrow but clear set of minimum standards, including allocation thresholds and core quantitative metrics (e.g. percentage taxonomy alignment) can support transparency and auditability. At the same time, fund managers should be required to disclose their methodology for classifying holdings, handling data gaps, and exercising judgement where taxonomy alignment is incomplete. This should allow for sufficient balance between technical requirements and principles-based methodologies.

Question 12: Should evidentiary requirements for investment product labels be linked to other policy initiatives being progressed as part of the roadmap (such as the taxonomy)?

Yes, there should be linkages across policy initiatives, such as the taxonomy, product labels and supporting evidentiary requirements.

Question 13: What should be the role of independent third-party certification?

Third-party certification, or verification, can increase confidence in labelling for investors, and support the work of regulators in ensuring accurate application of labels. Certification approaches should be clear that the sustainable characteristics of a product are being labelled or classified, and that this labelling does not denote any endorsement of the quality or suitability of an investment product.

We note the SDR in the UK is a voluntary system, with a focus on quality rather than the achievement of immediate scale.

a. If third-party certification is required, what criteria should be the product be certified against and who should set those criteria?

b. If third-party certification is not required, how can credibility and robustness of labels be ensured?

We support an approach where independent certification – or verification – is optional. A product issuer can claim a label based on their own assessment and may also choose to seek independent verification of that claim. Third-party verification should be by appropriately qualified organisations – for example holders of an AFSL – rather than via a single certifying body.

The FCA enable firms to use either an internal process or a third party, provided that the assessment is independent from the investment process. The assessment should be carried out by appropriately skilled resources, with disclosure of the basis on which the label is considered to be appropriate, and the function or third party (not the individual) that undertook the assessment.

CFA Institute publishes voluntary global ESG Disclosure Standards for Investment Products that may serve to guide disclosures. These are ethical standards based on the principles of fair representation and full disclosure, designed to communicate information about an investment product's consideration of ESG issues in its objectives, investment process, or stewardship activities. Compliance with the standards is voluntary, and an investment manager may choose the investment products to which it applies the standards. An investment manager may choose to have an independent third party provide assurance, and separate assurance procedures are published.

About CFA Institute

As the global association of investment professionals, CFA Institute sets the standard for professional excellence and credentials. We champion ethical behaviour in investment markets and serve as the leading source of learning and research for the investment industry. We believe in fostering an environment where investors' interests come first, markets function at their best, and economies grow. With more than 200,000 charterholders worldwide across 160 markets, CFA Institute has 10 offices and 160 local societies.

About CFA Society Australia

CFA Society Australia is part of the worldwide network of CFA Institute member societies that lead the investment profession globally by promoting the highest standards of ethics, education and professional excellence for the ultimate benefit of society. CFA Society Australia represents over 3500 investment professionals, and provides advocacy, education, events, and professional development.