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Understanding Society

Legal Study on the Application of the UCPD (Directive 2005/29/EC) to environmental claims about retail financial products

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Executive summary

This legal study concerns the application of the Unfair Commercial Practice Directive (Directive 2005/29/EC, as amended by the Empowering Consumers for the Green Transition Directive, Directive (EU) 2024/825) to environmental claims about retail financial products. It aims to analyse the complementary role the amended UCPD can play as a harmonised legal framework for consumer protection in the regulation of the accuracy and fairness of sustainability-related claims about retail financial products. The main findings of the study are the following:

1) The UCPD applies to commercial practices of a trader that are directly connected with the promotion, sale or supply of a product to consumers. The Court of Justice of the EU and national courts have held that the rules of the UCPD extend to all information that traders provide to consumers prior to, during or after the purchase process is part of the context of a commercial communication. Therefore, environmental claims made on consumer-facing websites of traders that consumers are likely to view and consider as part of their 'pre-purchase' decision process (such as sustainability disclosures under the Sustainable Finance Disclosure Regulation – SFDR), fall within the scope of the UCPD (Section 2.3). National courts or competent administrative authorities must assess the application of the UCPD to these claims on a case-by-case basis.

2) The UCPD requires that in-scope sustainability-related claims about retail financial products and services are sufficiently clear, specific, accurate and unambiguous, so that consumers are not misled. The UCPD blacklists four sustainability-related B2C commercial practices which shall in all circumstances be regarded as unfair. The study provides an in-depth analysis of how sustainability-related claims about financial products and services may run afoul of the UCPD blacklist. First, the presentation of financial products as being 'light green' or 'dark green' products under Articles 8 or 9 of the SFDR respectively, or the use of fund names including denominations such as 'green', 'sustainable', 'ESG' or 'SRI' (Socially Responsible Investing) constitute 'generic environmental claims' and are prohibited under the UCPD if the specification of the claim is not provided in clear and prominent terms on the same medium (Section 3.1).

3) Second, environmental claims about an entire product or the trader's entire business when it concerns only a certain aspect of the product or a specific activity of the trader's business – so-called 'halo claims' – are prohibited under the amended UCPD. A fund name provides an example of a product-level halo claim where it suggests the investments in underlying business activities are sustainable, even though only a marginal share of the investments is indeed allocated to business activities aligned with the standards set out by the EU's Taxonomy Regulation. A company-level halo claim may involve the environmental claim that a financial service provider invests in green projects and business operations, while the financing of non-green business activities (such as those run by fossil fuel companies) is significantly greater (Section 3.2).

4) Third, the ECGTD introduces very strict conditions for offset-based claims under the UCPD. If a trader claims in a commercial communication to consumers that a financial product (e.g. a fund) whose carbon footprint is offset through the purchase of carbon credits from an afforestation project elsewhere, this commercial practice is banned. Such product-level offset-based claims create the false impression that the financial product has a reduced or positive impact on the environment (Section 3.3).

5) Fourth, the ECGTD has significantly reduced the scope for the lawful use of voluntary sustainability labels for a financial product, product category, brand or trader in the context of B2C commercial communications. Labels for financial products or services that do not involve third-party (accredited) certification or government oversight are banned (Section 3.4). The use of the quasi-labels 'Article 8' and 'Article 9' for financial products regulated under the SFDR is prohibited (Section 4.2.2).

6) Article 6 UCPD prohibits traders from misleading consumers around the environmental or social characteristics of financial products. If a trader deceives or is likely to deceive the average consumer, even if the information is factually correct, in relation to the environmental characteristics of the product, it engages in a misleading commercial practice. Moreover, where a trader makes an environmental claim related to 'future environmental performance' that does not meet certain conditions to substantiate this claim constitutes a misleading commercial practice. Claims around the sustainability attributes of a financial product or the claim by a financial service provider that it will transition, by a certain date, to carbon or climate neutrality (e.g. 'net-zero by 2050'), require significant substantiation tests. In the absence of such substantiation, such claims are misleading provided that they cause or are likely to cause the average consumer to take a transactional decision that he would not have taken otherwise (Section 3.5). This transactional decision test also applies to claims in which the trader omits information (Article 7 UCPD) regarding the sustainability characteristics of a financial product or service which is considered material to the consumers decision to purchase the product or service (Section 3.6).

7) Regarding the interplay with secondary EU financial law laying down information requirements and rules on commercial communications, the UCPD offers a general legal 'safety net' ensuring that 'a high common level of consumer protection against unfair commercial practices can be maintained in all sectors, including by complementing and filling gaps in other EU law'. The secondary EU law in scope of this legal study does not conflict with the UCPD requirements regarding the way in which information must be presented in B2C commercial communications. These are complementary and therefore the UCPD applies in addition to these sector-specific financial rules as far as financial products and services are marketed to consumers (Section 4.1).

8) The legal study further explores nodes of interaction between the UCPD and secondary EU financial law. It is established that the information disclosure requirements under the SFDR cannot serve to justify the generic environment claims that Article 8 products (if advertised as 'light green' products) or Article 9 products (if advertised as 'dark green' products) involve. Similarly, the ESMA guidelines on fund names cannot justify the generic environmental claims suggested by funds names

involving ESG, SRI or other sustainability-related terms (Section 4.2.1). Moreover, the use of the quasi-labels 'Article 8' and 'Article 9' for financial products regulated under the SFDR is prohibited by the UCPD blacklist (Section 4.2.2).

9) More generally, any case-by-case assessment concerning the legality of specified environmental claims relating to retail financial products or services under Article 6 or Article 7 of the UCPD will take the benchmark of the average consumer in determining whether the commercial communication involved is misleading or not. It follows from this that compliance with secondary EU financial law does not immunize a trader from scrutiny and liability under Article 6 and Article 7 of the UCPD. Conversely, non-compliance with secondary EU financial law can demonstrate that environmental claims about retail financial products and services made in B2C commercial communications are misleading under Article 6 UCPD (Section 4.2.3). The failure to provide the consumer with information the trader should provide according to secondary EU financial law in a clear, intelligible, unambiguous or timely manner, amounts to a misleading omission under Article 7 UCPD given that information qualifies as material under Article 7(5) UCPD (Section 4.2.4).

10) Finally, the legal study offers a general roadmap for enforcement action in case B2C commercial communications regarding financial products or services violate the substantive norms of the UCPD. It does so by arranging the multiple formal and informal ways in which enforcement action can be taken through an escalation ladder.

1. Introduction

1.1 Greenwashing in retail finance

Consumers around the world favour investing their savings sustainably.[1] However, retail products of sustainable finance are complex.[2] What is more, sustainable finance literacy is low amongst consumers.[3] This creates the risk that consumers are misled about the goals, characteristics and impact of the sustainable financial products they choose to invest in. ***Greenwashing* is indeed prevalent in sustainable finance, including retail finance** and EU financial market regulators are called upon to take action to maintain a trusted environment for sustainable investment.[4]

EU financial regulation demands, in general terms, that all information, including marketing communications, pertaining to financial products is fair, clear and not misleading.[5] While much research has focused on these rules,[6] much less attention has been paid to the information disclosure duties that the **Unfair Commercial Practices Directive (UCPD)** sets for consumer-facing sustainable finance products offered by credit institutions, insurance companies, financial intermediaries, and other professionals.[7] Indeed, public regulators[8] and scholars[9] have flagged the regulatory potential the UCPD has as the overarching piece of EU law harmonising unfair commercial practices law in business-to-consumer transactions. However, the **national laws implementing the UCPD have yet to be used for direct enforcement action** against professional market actors for alleged greenwashing practices. In 2024, ESMA reported that four national authorities confirmed being 'competent authorities under the UCPD for certain cases of infringements, although to date they have not used it to enforce cases, but sometimes as reference point to assess claims and develop guidance'.[10]

The new **Empowering Consumers for the Green Transition Directive (ECGTD)** updates and extends the information disclosure obligations set out in the UCPD as regards sustainability-

[1] Eurobarometer, *Retail Financial Services and Products* (October 2022) https://europa.eu/eurobarometer/surveys/detail/2666 (accessed 15 October 2026) and McKinsey, *Green growth: Unlocking sustainability opportunities for retail banks* (2023), https://www.mckinsey.com/capabilities/sustainability/our-insights/green-growth-unlocking-sustainability-opportunities-for-retail-banks, and BEUC, *Sustainable Finance: Too Green to be True? How greenwashing, poor-quality products and bad advice are stopping consumers from investing sustainably* (October 2025), https://www.beuc.eu/sites/default/files/publications/BEUC-X-2025-099_Sustainable_finance_too_green_to_be_true.pdf (both accessed 15 October 2026).

[2] BEUC, *A Consumer Agenda for Sustainable Retail Finance and Banking. Consumer Priorities for the 2024-2029 Period* (2024), 6 https://www.beuc.eu/sites/default/files/publications/BEUC-X-2024-053_Agenda_for_sustainable_retail_finance_banking.pdf, (accessed 15 October 2026).

[3] M. Filippini, M. Leippold & T Wekhof (2024). 'Sustainable Finance Literacy and the Determinants of Sustainable Investing, 163 *Journal of Banking & Finance*, 107167, https://doi.org/10.1016/j.jbankfin.2024.107167 (accessed 15 October 2026).

[4] ESMA, 'Final Report on Greenwashing. Response to the European Commission's request for input on greenwashing risks and the supervision of sustainable finance policies' (4 June 2024), ESMA36-287652198-2699, https://www.esma.europa.eu/sites/default/files/2024-06/ESMA36-287652198-2699_Final_Report_on_Greenwashing.pdf (accessed 15 October 2026). See also BEUC 2025 (n 1), 14-15.

[5] See in detail section 4 of this study.

[6] See for a recent and comprehensive overview the contributions in S. Grünewald and A.-K. Kaufhold, *EU Sustainable Finance Law: A Commentary*, Cheltenham, Edward Elgar Publishing 2026.

[7] Directive (EC) 2005/29, OJ L149, 11.6.2005, p. 22, amended by Directive (EU) 2019/2161, OJ L328, 18.12.2019, p. 7.

[8] See e.g. Autoriteit Financiële Markten (AFM), *Leidraad duurzaamheidsclaims: Handvatten voor het maken van duurzaamheidsclaims door financiële ondernemingen en pensioenuitvoerders* (2023) https://www.afm.nl/~/profmedia/files/wet-regelgeving/beleidsuitingen/leidraden/leidraad-duurzaamheidsclaims.pdf (accessed 15 October 2026) and European Banking Authority, *Greenwashing monitoring and Supervision* (Final report, EBA/REP/2024/09), 27-28, https://www.eba.europa.eu/sites/default/files/2024-05/a12e5087-8fd2-451f-8005-6d45dc838ffd/Report%20on%20greenwashing%20monitoring%20and%20supervision.pdf (accessed 15 October 2026).

[9] See e.g. O. Perez and P. Verbruggen, 'Green Defaults in Sustainable Finance: Compliance Challenges at the Intersection of Private and Public Law' (2026) *Journal of Environmental Law* 38 (2), p. 171-195, at 189-190.

[10] ESMA 2024, 10.

related claims, both regarding its environmental and social dimensions.[11] Its implementation laws at the Member State level have **been in effect since 27 September 2026**.[12] With these laws in place, the ECGTD now constitutes an important source of regulation for sustainability-related claims, also those made in relation to retail financial products.[13]

This stance calls for a detailed and critical legal analysis of the application of the UCPD (as amended by the ECGTD) to sustainability-related claims regarding retail financial products. With that, an enhanced understanding of the relationship between the UCPD and EU financial and securities law in retail finance is needed. **This legal study** thus **aims to analyse the complementary role the updated UCPD can play as a harmonised legal framework for consumer protection in the regulation of the accuracy and fairness of sustainability-related claims about retail financial products**.

1.2 Research questions and methodology

Given this aim, the following research questions will guide the proposed research:

1) *Under which conditions does the UCPD (as amended by the ECGTD) apply to sustainability-related claims about retail financial products promoted to consumers?*
2) *What legal requirements does the UCPD (as amended by the ECGTD) impose on traders making these claims as regards the information communicated to consumers?*
3) *How do these requirements relate to those set by EU financial regulation, including guidance offered by public regulators?*
4) *What course of action can individual consumers, their legitimate representatives, and national competent authorities (individually or jointly) take if traders breach the legal requirements identified?*

These research questions involve the analysis of the personal and material scope of the UCPD, its substantive information disclosure duties in the context of financial products, as well as the potential legal consequences of breaching the requirements set forth in the UCPD.

1.2.1 Scope of the analysis: financial products involved

The research is limited to financial products (and services) typically offered to consumers. These involve, for example, green loans, mortgages and savings accounts and investment funds, life insurance products and pension funds. Private equity, venture capital or investment funds that are typically unavailable to retail investors on low to medium incomes are excluded, and so are shares and (green or sustainability-linked) bonds. Accordingly, the study will follow BEUC's policy focus as determined in 2024 and centre on certain packaged retail and insurance-based investment products (PRIIPs), especially Undertakings for the Collective Investment in Transferable Securities (UCITS), insurance-based investment products (IBIPs) and, to a lesser degree, Alternative Investment Funds (AIFs).

Accordingly, various measures of secondary EU law concerning financial services and securities regulation are relevant to answer research question 3. These concern:

[11] Directive (EU) 2024/825, OJ L, 2024/825, 6.3.2024.
[12] Art. 4(1) ECGTD. The consolidated version of the UCPD, dated, 27 September 2026, is available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02005L0029-20260927 (accessed 15 October 2026).
[13] Perez & Verbruggen 2026, p. 20.

- AIFMD;[14]
- CBDF Regulation;[15]
- IDD;[16]
- MIFID 2;[17]
- PRIIPs Regulation;[18]
- Prospectus Regulation;[19]
- SFDR;[20]
- Taxonomy Regulation.[21]
- UCITS Directive.[22]

1.2.2 Empirical grounding: examples from across Europe

The assessment of the application of the UCPD (as amended by the ECGTD) to retail financial products making sustainability-related claims will take place based on real-life examples from Hungary, Spain and Sweden collected and sourced by BEUC with the help of national consumer organisations. These examples all concern the trader Allianz, a market leader in financial products in Europe with a pronounced sustainability profile. The examples are supplemented by consumer-facing claims regarding the sustainability of financial products or the activities of their providers (e.g. credit institutions, investment firms, pension funds, asset (fund) managers and insurance companies). Together, the examples will serve as the empirical basis to assess the scope and meaning of the legal requirements the UCPD (consolidated version) and its interplay with applicable legal requirements of EU financial and securities law set.

1.3 Structure of the analysis

Section 2 discusses the applicability of the UCPD (as amended by the ECGTD) to sustainability-related claims concerning retail financial products. Section 3 analyses the substantive requirements the UCPD sets for traders making such claims vis-à-vis consumers. Section 4 assesses the interplay between the identified UCPD requirements and those set by EU financial law. Section 5 maps the possible courses of action that individual consumers, their legitimate representatives, and national competent authorities (individually or jointly) can take if traders breach the legal requirements identified.

[14] Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010, OJ 2011 L 174/1.
[15] Regulation (EU) 2019/1156 of the European Parliament and of the Council of 20 June 2019 on facilitating cross-border distribution of collective investment undertakings and amending Regulations (EU) No 345/2013, (EU) No 346/2013 and (EU) No 1286/2014, OJ 2019 L 188/55.
[16] Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (recast), OJ 2016 L 26/19.
[17] Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU), OJ 2014 L 173/349.
[18] Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products, OJ 2014 L 352/1.
[19] Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC, OJ 2017 L 168/12.
[20] Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability-related disclosures in the financial services sector (Sustainable Finance Disclosure Regulation), OJ 2019 L 317/1.
[21] Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation 2019/2088, OJ 2020 L 198/13.
[22] Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (recast), OJ 2009 L 302/32.

2 Application of the UCPD to sustainability-related claims about retail finance

The UCPD prohibits unfair business-to-consumer (B2C) commercial practices before, during and after a commercial transaction in relation to a product. This Section discusses the main characteristics of the UCPD and its provisions (2.1), as well as its personal (2.2) and material scope of application (2.3). Accordingly, it answers the question: *under what conditions does the UCPD apply to sustainability-related claims about retail finance*?

2.1 General: horizontal application and maximum harmonisation

The Directive is **horizontal** in its **application**, meaning that its provisions address a wide range of practices across all domains of B2C commerce, including financial retail services.[23] In case other EU legislation exists that regulates specific aspects of unfair commercial practices, the UCPD will complement this legislation and offer a general legal **'safety net'** ensuring that 'a high common level of consumer protection against unfair commercial practices can be maintained in all sectors, including by complementing and filling gaps in other EU law'.[24] However, it follows from Article 3(4) UCPD that where EU legislation, sector-specific or other, is in place and its provisions overlap with the provisions of the UCPD, the corresponding provisions of the *lex specialis* will prevail.[25] This also applies to EU financial law (see in detail Section 4).

In addition, the provisions of the UCPD carry a **maximum harmonisation** character. This means that the national laws of the Member States cannot afford a greater level of consumer protection than the provisions of the UCPD. National laws that do so must remain without legal effect.[26] However, Article 3(9) UCPD places a **limitation on this character** of the UCPD by stipulating that '**in relation to 'financial services'** [...] and immovable property, Member States may impose requirements which are more restrictive or prescriptive than this Directive in the field which it approximates'. Member States may therefore impose rules stricter than the provisions of the UCPD for financial retail services, as long as these national rules comply with other EU rules pertaining to financial retail products and services.[27]

2.2 Personal scope: B2C commercial practices

The UCPD has a limited personal scope. It applies only to **commercial practices between businesses and consumers**. Such B2C commercial practices are defined as 'any act, omission, course of conduct or representation, commercial communication including advertising and marketing, by a trader, directly connected with the promotion, sale or supply of a product to consumers.'[28] In this context, a **'consumer'** means 'any natural person who, in

[23] European Commission Notice, 'Guidance on the interpretation and application of Directive 2005/29/EC', OJ 2021/C 516, p. 1, 29.12.2021 (hereinafter: Commission Guidance 2021), p. 5.
[24] Commission Guidance 2021, 8.
[25] Art. 3(4) UCPD (consolidated version): 'In case of conflict between the provisions of this Directive and other Community rules regulating specific aspects of unfair commercial practices, the latter shall prevail and apply to those specific aspects'. See also Recital 10 UCPD.
[26] Art. 4 UCPD (consolidated version) and Recitals 5, 12 and 13 UCPD. See also: Joined Cases C-261/07 and C-299/07, ECLI:EU:C:2009:244, *VTB-VAB,* 23 April 2009, para. 52.
[27] The rationale for this exemption must be found in the complex nature of these types of products or the high financial risks involved for consumers. See Recital 10 UCPD.
[28] Art. 2(d) UCPD (consolidated version 27 Sept. 2026). The ECJ held that the sole criterion in Article 2(d) of the UCPD is that the trader's practice must be directly connected with the promotion, sale or supply of a good or service to consumers. See, inter alia, Case C-388/13, ECLI:EU:C:2015:225, *UPC*, para. 35, with references.

commercial practices covered by this Directive, is acting for purposes which are outside his trade, business, craft or profession',[29] whereas a **'trader'** means 'any natural or legal person who, in commercial practices covered by this Directive, is acting for purposes relating to his trade, business, craft or profession and anyone acting in the name of or on behalf of a trader'.[30] A **'product'** is 'any good or service including immovable property, digital service and digital content, as well as rights and obligations.[31] Accordingly, the rules contained in the UCPD may apply to financial products and services that traders, including credit institutions (i.e. banks), investment firms, pension funds, asset managers, fund managers and insurance companies) offer to consumers (i.e. retail financial products).

2.3 Material scope: Commercial practices directly connected with the promotion, sale or supply of products

To fall within the material scope of the UCPD the commercial practice of a trader must be '**directly connected** with the promotion, sale or supply of a product to consumers'.[32] Advertising campaigns promoting the products of financial market participants, social media profiles of credit institutions, insurance companies, fund managers and other traders designed to promote their products, or direct marketing to prospective and existing retail customers,[33] all fall within the material scope of the UCPD. It needs to be determined on a case-by-case basis whether a commercial communication or representation made by a trader directed to a consumer meets this condition of direct connectedness.[34]

However, the Directive explicitly notes **certain categories of commercial communications that are outside its scope**. In Recital 7, the UCPD holds:

> *'This Directive addresses commercial practices directly related to influencing consumers' transactional decisions in relation to products. It does not address commercial practices carried out primarily for other purposes, including for example commercial communication aimed at investors, such as annual reports and corporate promotional literature.'*

This phrasing raises the question of the conditions under which **company-level sustainability policies** – frequently presented as programs and plans of Corporate Social Responsibility (CSR), Environmental, Social and Governance (ESG) or Socially Responsible Investing (SRI) – found on the consumer-facing websites of traders can be considered a commercial practice within the scope of the UCPD. While these policies – and the representations made about them – may serve to inform investors, shareholders and other corporate stakeholders regarding the environmental character and ambitions of a trader, the trader's business operations, and its products, they may at the same time very well influence consumers when making a transactional decision whether, how and on what terms to purchase a product of the trader involved.[35] The case law of the Court of Justice of the EU (CJEU) shows that any 'decision directly related to the decision whether or not to purchase a product is covered by the concept

[29] Art. 2(a) UCPD (consolidated version).
[30] Art. 2(b) UCPD (consolidated version).
[31] Art. 2(c) UCPD (consolidated version).
[32] Art. 2(d) UCPD (consolidated version).
[33] See e.g. Case C-646/22, ECLI:EU:C:2024:957, *Compass Banca*, 14 November 2024.
[34] See eg. Case C-281/12, EU:C:2013:859 *Trento Sviluppo*, 19 December 2013, paras. 35-38 and Case C-388/13, UPC, 16 April 2015, paras. 32-37.
[35] Art. 2(k) UCPD (consolidated version).

of 'transactional decision''.[36] This implies that if a trader presents to a consumer its company-level sustainability policies prior to, during or after the purchase of a financial product, such policies and the representations made about them can come in scope of the Directive and, by extension, become subject to its prohibitions. Whether this is so is subject to a **case-by-case assessment**.

What experience has been gained with this case-by-case assessment in enforcement actions against alleged misleading environmental claims in B2C commercial communications in Europe? National courts hearing civil law disputes involving such environmental claims have been clear to distinguish between B2C commercial communications and company-level environmental statements carried out primarily for other purposes. For example, in the **civil lawsuit** that Friends of the Earth France, Greenpeace France and Notre Affaire à Tous, with support from ClientEarth, brought **against TotalEnergies** in 2022, the District Court of Paris (*Tribunal de Paris*) first considered which green claims made by TotalEnergies could be considered commercial communications in scope of the national laws implementing the UCPD.[37] In this lawsuit, the claimants targeted the oil and gas producer's company-level net-zero ambitions, claiming that it engaged in unfair commercial practices and misled consumers by failing to justify the climate strategy it promoted in a total of 30 B2C commercial communications.[38] In October 2025, the District Court of Paris held that in three such communications, TotalEnergies' net-zero claims were likely to mislead consumers and thus constituted a violation of the national laws implementing the UCPD.[39] 18 communications did not include any such claims, and nine others did not involve communications directly related to the promotion, sale or supply of a product to consumers.[40]

Courts and administrative authorities in other Member States have also critically assessed whether the disputed company-level environmental claims meet the threshold criterium of being a commercial communication that is directly connected with the promotion, sale or supply of a product to consumers.[41] Based on this case law, scholars have recently argued that:

> *'if consumers are inclined through the corporate website to click through to the consumer website and envisage purchasing a certain energy supply, then the claims on the corporate website and advertisements directing the audience to this corporate website do fall within the scope of the UCPD as they are directly related to influencing the consumer's 'pre-purchase' decision in relation to energy products.'*[42]

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[36] Case C-281/12, EU:C:2013:859, *Trento Sviluppo*, 19 December 2013, paras. 38.

[37] See for a summary of the proceedings Notre Affaire à Tous, 'Recours contre TotalEnergies pour publicité mensongère : le greenwashing et la "stratégie climat" de la multinationale pour la première fois au tribunal', May 2025 <https://notreaffaireatous.org/wp-content/uploads/2025/05/DP-Recours-contre-TotalEnergies-pour-publicite-mensongere.pdf> (accessed 15 October 2026).

[38] The writ of summons is available at Greenpeace France, 'Neutralité carbone et greenwashing: recours contre TotalEnergies pour publicité mensongère', 3 March 2022, https://cdn.greenpeace.fr/site/uploads/2022/03/Assignation_Greenpeace_AT_NAAT_c.-TOTAL_02032022.pdf (accessed 15 October 2026).

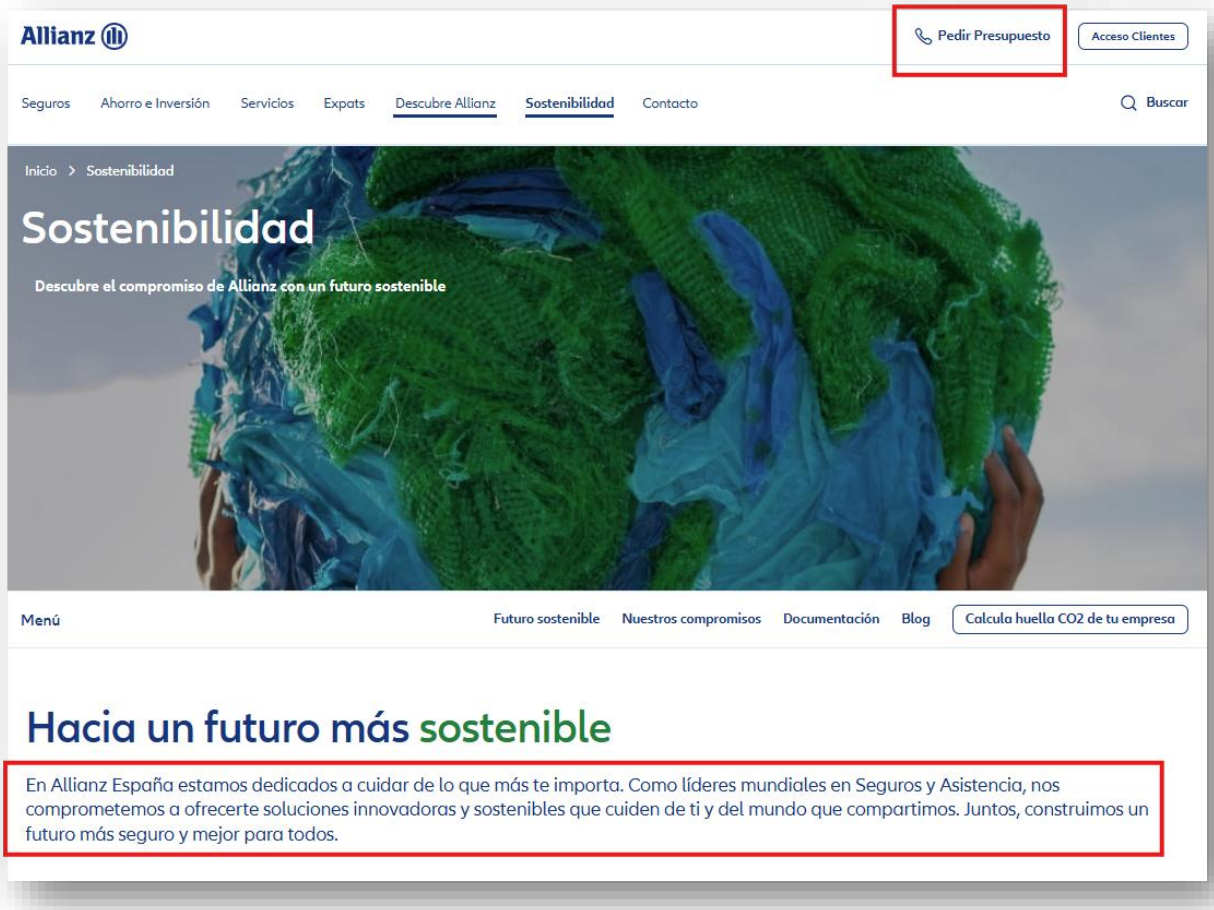
[39] District Court of Paris (*Tribunal de Paris, 34ème cambre*), 23 October 2025, N° RG 22/02955 - N° Portalis 352J-W-B7G-CWJKL (*Association Greenpeace and others/ TotalEnergies)* [130] – [135], www.amisdelaterre.org/wp-content/uploads/2025/10/decision-total-gw-231025.pdf (accessed 15 October 2026).

[40] *Ibid*., paras. 56-80.

[41] See e.g. in the Netherlands: District Court of Amsterdam (*Rechtbank Amsterdam*) 20 March 2024, ECLI:NL:RBAMS:2024:1512 (*FossielVrij/KLM*), unofficial translation www.clientearth.org/media/cx4po41h/klm-judgment-20-march-2024.pdf (accessed 15 October 2026). See e.g. for Italy: Competition and Market Authority (*Autorità Garante della Concorrenza e del Mercato*), Decision No. PS12709 (*Infinite Styles Services Co. Ltd – SHEIN*), 29 July 2025, www.agcm.it/dotcmsdoc/allegati-news/PS12709%20chiusura.pdf, (accessed 15 October 2026).

[42] A. De Franceschi et al, *Misleading Environmental Claims in the EU Energy Sector: Legal Assessment under the Unfair Commercial Practices Directive and the Empowering Consumers Directive* (Study commissioned by BEUC) 2026, p. 20 (with further references

EXAMPLE 1: COMPANY-LEVEL CLAIMS IN B2C COMMERCIAL COMMUNICATION



Source: https://www.allianz.es/sostenibilidad.html
(last accessed 15 October 2026)

In this example, Allianz Spain presents on its consumer-facing website devoted to 'Sustainability' its business as being concerned with environmental sustainability. In the text in the red box at the bottom of the image, it claims: [translation BEUC] 'As global leaders in Insurance and Assistance, we are committed to offering you innovative and sustainable solutions that look after you and the world we share'. Moreover, there is imagery of a blue and green planet, and an environmental claim of the company's commitment to a 'more sustainable future'. Combined with the option to request a quotation for a financial product (red box at the top of the image), the example is likely to be connected with the promotion, sale or supply of a product to consumers, and will thus likely qualify as a B2C commercial communication falling within the ambit of the UCPD.

The ECGTD reinforces the need to distinguish between B2C commercial communications and commercial communications carried out primarily for other purposes. The Directive sets out new rules regarding the use of such claims in B2C commercial communications. It defines an **environmental claim** to mean:

to national case law), https://www.beuc.eu/sites/default/files/publications/BEUC-X-2026-052_Misleading_Environmental_Claims_in_the_EU_Energy_Sector_KU_Leuven_study.pdf (accessed 15 October 2026)

'any message or representation which is not mandatory under Union or national law, in any form, including text, pictorial, graphic or symbolic representation, such as labels, brand names, company names or product names, ***in the context of a commercial communication****, and which states or implies that a product, product category, brand or trader has a positive or zero impact on the environment or is less damaging to the environment than other products, product categories, brands or traders, or has improved its impact over time.*[43]

Accordingly, only environmental claims made in the context of a commercial communication that is directly linked to the promotion, sale or supply of a product to consumers within the scope of the UCPD and its implementation laws at Member State level. This may also involve the prevalent practice of traders including weblinks on their commercial websites that direct consumers to the corporate website where green claims are made.[44] In the case of financial products specifically, environmental claims made in pre-contractual documentation, such as PRIIPs Key Information Documents (KIDs) and SFDR disclosures, that are shared with the retail investor prior to, during or after the purchase process of a financial product should be considered part of the context of a commercial communication. Therefore, also the environmental claims made in such documentation are subject to the rules of the UCPD.

[43] Art. 2(o) UCPD (consolidated version).
[44] De Franceschi et. al. 2026, p. 20.

3 Relevant Substantive UCPD Norms

Sustainability-related claims about retail finance that fall within the scope of the UCPD **must be presented in a sufficiently clear, specific, accurate and unambiguous manner, so that consumers are not misled or otherwise treated unfairly**.

The UCPD, as revised by the ECGTD, contains a series of **substantive norms** that regulate the legality of sustainability-related claims in B2C commercial communications. These concern four 'blacklisted' commercial practices which shall in all circumstances be regarded as unfair,[45] namely practices regarding so-called 'generic environmental claims' (3.1), 'halo claims' (3.2), 'offset-based claims' (3.3) and sustainability labels (3.4). In addition, misleading claims regarding the 'environmental characteristics' of a product, product category, brand or trader and the 'future environmental performance' of a trader or its business operations may qualify as unfair commercial practices (3.5). Finally, also the failure to disclose to consumers material information regarding the environmental properties of a product or the business operations of the trader itself (i.e. misleading omissions) can constitute an unfair commercial practice (3.6).

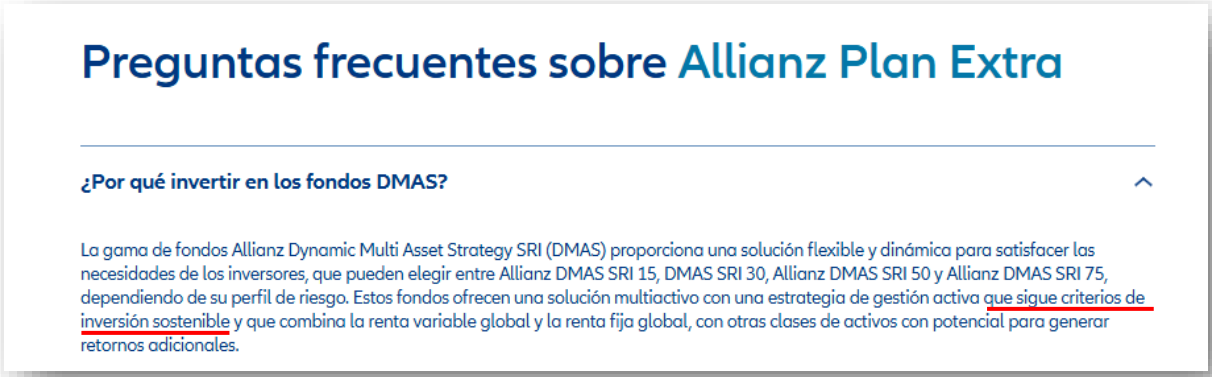
By discussing these norms this Section answers the question: *what legal requirements does the UCPD (as amended by the ECGTD) impose on traders that use sustainability-related claims when promoting financial products to consumers?*

3.1 Generic environmental claims

Since the adoption of the ECGTD, the UCPD strictly regulates the use in B2C commercial communications of so-called 'generic environmental claims'. Such claims involve 'any environmental claim made in written or oral form, including through audiovisual media, that is not included on a sustainability label and where **the specification of the claim is not provided in clear and prominent terms on the same medium**'.[46] Examples of generic environmental claims include statements such as 'environmentally friendly', 'eco-friendly', 'green', 'nature's friend', 'ecological', 'environmentally correct', 'climate friendly', 'gentle on the environment', 'carbon friendly', 'energy efficient', 'biodegradable', 'biobased' or similar statements that suggest or create the impression of excellent environmental performance.[47] The combination of these expressions with implicit claims such as colours (green, blue) and imagery (the planet forests, oases, coral reefs, etc.) may also constitute a generic environmental claim.[48] The term 'sustainable' also constitutes such a claim where it links to the ecological characteristics or performance of a product, product category, brand or trader.[49]

[45] Art. 5(5) UCPD (consolidated version) read in conjunction with Annex I UCPD (consolidated version). See for a discussion of 'sustainability label' section 3.4 below.
[46] Art. 2(p) UCPD (consolidated version).
[47] Recital 9 ECGTD.
[48] *Ibid, in fine*.
[49] Recital 10 ECGTD. See also Commission Guidance 2021, 76.

EXAMPLE 2: PRODUCT-LEVEL GENERIC ENVIRONMENTAL CLAIM



Source: https://www.allianz.es/allianz-plan-extra.html

(last accessed 15 October 2026)

In this example, Allianz Spain presents its DMAS investment funds as having active management strategies that 'adhere to sustainable investment criteria' [translation BEUC]. Mention is made of SRI generally, but it is not explained on the same product page what 'sustainable investment criteria' are meant. The legal documentation belonging to the four DMAS funds is served through the displayed product page and can be found via https://www.allianz.es/informacion-legal/documentos-legales.html#plan-extra. However, these documents do not provide any sustainability information and only include the information that is part of the Key Information Documents. Accordingly, the product claim remains a generic environmental claim.

In the financial sector, specifically with regard to ESG funds, financial market participants and financial advisors have used the product categories of **'Article 8'** and **'Article 9'** products under the SFDR to promote the sustainability characteristics of investments in underlying business activities. Article 8 products have been presented as **'light green' products**, Article 9 products as **'dark green' products**, or as 'sustainable' financial products all together.[50] These claims are likely to constitute generic environmental claims if the specification of the claim is not provided in clear and prominent terms on the same medium. Moreover, also **fund names** like 'Global Sustainability', 'Climate Protection', 'Sustainable Growth Equity', 'Equity SRI' or 'ESG Credit' are at risk of qualifying as generic environmental claims provided that there is no specification of the claim (...) in clear and prominent terms on the same medium.[51]

The ECGTD severely restricts the use of generic environmental claims in B2C commercial communications.[52] Point 4a of Annex I UCPD (consolidated version), which according to Article 5(5) UCPD concerns 'commercial practices which are in all circumstances considered unfair',

[50] ESMA, 'TRV Risk Monitor: ESMA Report on Trends, Risks and Vulnerabilities', No. 1, 2023 (ESMA50-165-2438), p. 35, https://www.esma.europa.eu/sites/default/files/library/ESMA50-165-2438_trv_1-23_risk_monitor.pdf (accessed 15 October 2026).
[51] Some of these names (or variations of them) appear on the consumer-facing website of Allianz Hungaria, allowing consumers to choose from these products to become part of a life insurance product. See Allianz Hungaria Zrt., 'Eszközalapok' ('Asset funds'), https://www.allianz.hu/hu_HU/lakossagi/elet-es-egeszseg/eszkozalapok.html (accessed 15 October 2026).
[52] See generally E. Van Gool, 'New UCPD Rules on Generic, Offset-based and 'Greenwishing' Claims Examined in the Context of Climate Change Litigation' in: A. De Franceschi, B. Keirsbilck & E. Terryn, *Green Claims and Greenwashing New Rules and Challenges for Businesses and Consumers*, Cambridge: Intersentia 2026, p. 44-53 and De Franceschi et. al. 2026, p. 32-34.

has been updated to include generic environmental claims. This **'blacklist'** now identifies as unfair the commercial practice of:

> *'Making a generic environmental claim for which the trader is not able to demonstrate recognised excellent environmental performance relevant to the claim.'*[53]

Such **'recognised excellent environmental performance'** must be understood as 'environmental performance compliant with [the EU Ecolabel Regulation/PV] or with national or regional EN ISO 14024 type I ecolabelling schemes officially recognised in the Member States, or top environmental performance in accordance with other applicable Union law'.[54] Read together, point 4a of Annex I of the UCPD (consolidated version) implies that traders are allowed to make generic environmental claims only to the extent that these are substantiated in a very particular way.

The EU Ecolabel or state-recognised national or regional ecolabelling schemes offer such a way.[55] Of these ecolabelling schemes, only **Österreichische Umweltzeichen** and **Nordic Swan offer ISO 14024 Type 1 ecolabels for sustainable finance products**.[56] While the first issues the Austrian Ecolabel UZ 49, the second offers an ecolabel for investment funds and products. The standards underpinning these labels involve compliance with the Taxonomy Regulation and the disclosure obligations under Article 8 or Article 9 of the SFDR, benchmarks (%) for holdings in equities, corporate bonds and/or eligible green bonds, and exclusion criteria aimed at restricting the holdings in companies that are engaged with production activities around fossil fuels and uranium, weapons or tobacco, in companies responsible for violations of fundamental rights or in certain government bonds.[57] While there are several other national initiatives in Europe, none of these qualify as an ISO 14024 Type 1 ecolabel.[58]

Beyond the recognised ecolabelling schemes the UCPD (consolidated version) allows for the possibility of substantiating a generic claim by showing **'top environmental performance in accordance with other applicable Union law'**. On this point, the ECGTD refers to class A in accordance with the Energy Labelling Regulation, but other Union law may apply.[59]

Quality standards imposed on retail financial products or services through EU financial law are unlikely to qualify as such 'other applicable Union law'. In general, EU financial law establishes a baseline of minimum standards for entities offering retail finance products on the market. Such **minimum standards cannot be said to provide the excellent environmental performance** required, which implies that a financial product or trader must go beyond

[53] Annex I, under 4a UCPD (consolidated version).
[54] Art. 2(s) UCPD (consolidated version).
[55] See for a list of nationally and regionally officially recognised EN ISO 14024 type I ecolabelling schemes in Europe: https://green-forum.ec.europa.eu/green-business/eu-ecolabel/community-and-helpdesk_en (accessed 15 October 2026). See for the complete range of products covered by the EU Ecolabel: https://environmental-data.ec.europa.eu/ecolabel/product_list.html https://environmental-data.ec.europa.eu/ecolabel/index.html (accessed 15 October 2026). See further BEUC and BBE, *The New Ecolabel Workplan 2025-2029: Initial Recommendations*, Brussels 2024, https://www.beuc.eu/sites/default/files/publications/BEUC-X-2024-078_EU_Ecolabel_work_plan_2025-2029.pdf (accessed 15 October 2026).
[56] See https://www.umweltzeichen.at/de/zertifizierung/der-weg-zum-umweltzeichen/antragsinfos-zur-richtlinie-uz49-nachhaltige-finanzprodukte and https://www.nordic-swan-ecolabel.org/criteria/investment-funds-and-investment-products-101/ (both accessed 15 October 2026).
[57] Österreichische Umweltzeichen, *Sustainable Financial Products* (version 6.1, 1 January 2026), https://www.umweltzeichen.at/site/assets/files/2265/uz49_r6_1a_sustainable_financial_products_2024_en.pdf and Nordic Swan, *Nordic Swan Ecolabelled Investment funds and investment products* (version 2.6, 15 February 2022 – 31 August 2027), https://www.nordic-swan-ecolabel.org/497da4/contentassets/1831da8fd64f4a04a2b27f6d0f3677a4/background-document_101_investment-funds-and-investment-products-101_english2.pdf (both accessed 15 October 2026).
[58] Nordic Swan provides an overview in its *Ecolabelled Investment funds and investment products* 2026, p. 8-9.
[59] Recital 10 ECGTD.

promoting ESG characteristics.[60] In fact, the ECTGD blacklisted the commercial practice of 'presenting requirements imposed by law on all products within the relevant product category on the Union market as a distinctive feature of the trader's offer'.[61] What is required instead is that the product, product category, brand or trader in relation to which the generic claim is made actually contributes to measurable environmental improvements, such as carbon reduction, circular economy adoption or biodiversity restoration.

Demonstrated top environmental performance does not necessarily need to come in the form of (third-party) certification, labelling or verification, and neither does it need to involve a ranking of various products.[62] What is important to underline, however, is that 'the recognised excellent environmental performance in question should be **relevant to the entire claim**.'[63] This means that the generic environmental claim must match the excellent environmental performance that was recognised. Therefore, traders cannot, for example, claim that their product is 'sustainable' or 'responsible' based exclusively on the recognised excellent environmental performance of its products or business activities, since such generic claims involve characteristics in addition to environmental characteristics which have not been recognised.[64]

The question of whether EU financial law, in particular **Taxonomy-aligned financial products under the SFDR** and **guidelines on fund names**, may show 'recognised excellent environmental performance' to justify generic claims concerning 'light green' and 'dark green' products, is addressed in Section 4.2.1.

It should be noted that where the trader offers 'the specification of the claim (…) in clear and prominent terms on the same medium' and thereby makes no generic, but a specific environmental claim, such a claim may still run afoul of the UCPD provisions on misleading actions (Article 6) or misleading omissions (Article 7) (see Sections 3.5 and 3.6).

3.2 Halo claims

The adoption of the ECGTD has added to Annex I of the UCPD another commercial practice which is in all circumstances to be considered unfair. This practice is found under point 4b of Annex I of the UCPD (consolidated version) and involves:

> *'Making an environmental claim about the entire product or the trader's entire business when it concerns only a certain aspect of the product or a specific activity of the trader's business'*.[65]

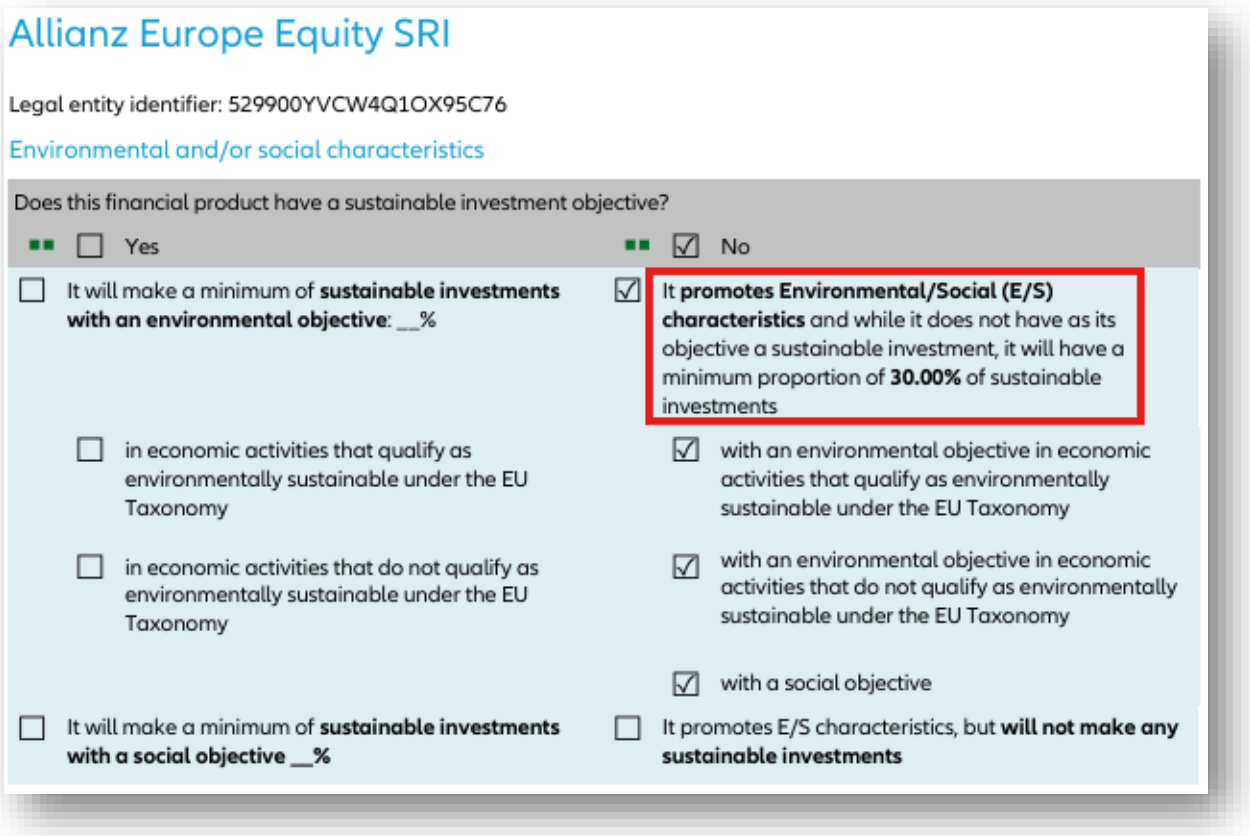
This provision means that **traders are prohibited from making an environmental claim about the product they offer to consumers when the product's impact on the environment only concerns a certain aspect of it**. This type of 'halo claims' highlight a limited positive environmental characteristic in a way that creates a broader, unjustified impression of overall environmental sustainability of the product or trader involved.[66]

[60] Compare Van Gool 2026 (p. 52-53), who offers examples of EU rules concerning carbon removal, farming and storage in the foodstuffs value chain and concerning the environmental impact hotel accommodation services.
[61] Annex I, under 10a UCPD (consolidated version).
[62] Van Gool 2026, p. 52.
[63] Recital 10 ECGTD.
[64] Recital 10 ECGTD, *in fine*.
[65] Annex I, under 4b UCPD (consolidated version).
[66] See further De Franceschi et. al. 2026, p. 44.

In the financial sector, an example of a B2C commercial practice in scope of the prohibition on halo claims would concern making the claim that a trader's business is environmentally sustainable because it offers certain financial products (e.g. green loans for low-energy real estate) or pursues certain investment decisions (e.g. decisions to invest in transition climate funds that promote decarbonization), whereas the majority of financial products the bank offers or the investments it makes frustrate the goals involved. Point 4b of Annex I of the UCPD bans these and other claims of having a 'sustainable', 'green' or 'environmentally friendly' business operation whereas only a share of its operations meet substantive standards of environmental sustainability.

Fund names may also constitute prohibited halo claims. Fund names may suggest the investments in underlying business activities are sustainable, even though only a marginal share of the investments is indeed allocated to Taxonomy-aligned activities. This can amount to a product-level halo claim.

EXAMPLE 3: PRODUCT-LEVEL HALO CLAIM



Allianz Europe Equity SRI

Legal entity identifier: 529900YVCW4Q1OX95C76

Environmental and/or social characteristics

Does this financial product have a sustainable investment objective?

☐ Yes

☑ No

☐ It will make a minimum of **sustainable investments with an environmental objective**: __%

☑ It **promotes Environmental/Social (E/S) characteristics** and while it does not have as its objective a sustainable investment, it will have a minimum proportion of **30.00%** of sustainable investments

- ☐ in economic activities that qualify as environmentally sustainable under the EU Taxonomy
- ☑ with an environmental objective in economic activities that qualify as environmentally sustainable under the EU Taxonomy
- ☐ in economic activities that do not qualify as environmentally sustainable under the EU Taxonomy
- ☑ with an environmental objective in economic activities that do not qualify as environmentally sustainable under the EU Taxonomy
- ☑ with a social objective

☐ It will make a minimum of **sustainable investments with a social objective** __%

☐ It promotes E/S characteristics, but **will not make any sustainable investments**

Source: https://lu.allianzgi.com/en-lu/our-funds/funds/list/allianz-europe-equity-sri-a-eur?nav=overview (last accessed 15 October 2026)

In this example, Allianz Global Investors offers the Allianz Europe Equity SRI fund. The fund, which qualifies as a UCITS fund and Article 8 SFDR, carries in its name SRI – Socially Responsible Investing. This acronym suggests that any fund adhering to SRI pursues an investment strategy which seeks to consider financial return alongside environmental or social goals. However, the prospectus of the fund discloses that only a minimum

proportion of 30% of the fund will go to sustainable investments.[67] This fund is also offered on international and national platforms, such as in Sweden.[68] Given that the fund name gives the consumer the impression that the entire product is environmentally or socially sustainable, whereas it may only concern a minor share of the investments made under the fund, the environmental claim that flows from the fund name is likely to be within the scope of the halo claim prohibition of Point 4b of Annex I of the UCPD.[69]

The Recitals of the ECGTD specify that the halo claim ban 'should not prevent a trader from making environmental claims about its entire business, provided that those claims are accurate and verifiable and that they do not overstate the environmental benefit'.[70] Representations regarding investments in its own business operations, as well as the environmental implications of such investments, must therefore be clear, precise, accurate and substantiated such that consumers are not misled. The plain and undocumented use of an environmental claim for entire products or the entire business of traders, whereas only an aspect of the product or business can be regarded as environmentally sustainable in reality, will be regarded as too absolute a claim and prohibited under point 4b of Annex I of the UCPD.

Example 4: Company-level Halo Claim

In a promotional video (in English) that was published on its website, ING bank makes the following claims:

"Climate change is a speeding train. It's ramming through stations and headed straight for us. So, what's ING doing? We're trying to help slow it down, while also preparing for what could happen if it doesn't." (...)

"Our biggest impact on climate is through our financing. We finance billions of euros of green projects and companies around the world. We say a flat-out 'no' to certain businesses and 'yes, but' to others outlining sustainability changes they'll have to make first and then helping them to make them." (...)

"We steer our portfolio towards this technology [= "the new technology needed to reach a net-zero world by 2050"] and away from high-carbon technology," (...)

We do our part as a bank, together with our clients, and commend others who are doing the same." (...)
"We're focused on the future, moving step by step to make the biggest difference we can. For us. For our clients. For the world."

Source: https://www.reclamecode.nl/uitspraak/?uitspraakId=457358
(last accessed 15 October 2026)

FossielVrij – a Dutch NGO linked to the global NGO 'World without fossil ads' – challenged ING's claims before the Dutch Advertising Code Commission (*Reclame Code Commissie – RCC*). This advertising self-regulatory body enforces the Dutch Advertising Code (*Nederlandse Reclamecode* – NRC), which is based on and follows

[67] Allianz Global Investors GmbH, Allianz Global Investors Fund (22 September 2026), p. 691 https://lu.allianzgi.com/-/media/allianzgi/eu/shared/mmpdocuments/vpe/vpe/2018/10/12/08/53/uf-lu1997244873-vpe-en-agifenvpsvvs-22092026.pdf?rev=7a032130d2a2435fb016ec9bf8aa89ec&hash=0DF6AE83C465BBFB36C200E42E5A0B0B (accessed 15 October 2026).
[68] See: https://www.avanza.se/fonder/om-fonden.html/290798/allianz-europe-equity-sri-a-eur.
[69] The claim may also violate Article 6 UCPD given that the environmental characteristics of the fund are misrepresented through its fund name, contrary to ESMA guidelines on fund names (see Section 4.2.3 below)
[70] Recital 11 ECGTD.

the UCPD rules.[71] The NRC also includes the Code on Environmental Claims (*Code Duurzaamheidsreclame* – CDR), which involves rules similar to those set out under the ECGTD. The RCC held that ING's statements were likely to mislead consumers and thus violated the CDR. More specifically, it reasoned:

> *"The way the statement is phrased gives the impression that the non-green financing is more than compensated by the explicitly mentioned billions in financing for green projects and companies. However, ING has not disputed that its fossil fuel financing is relatively much larger (according to the complaint, recently three times more) than financing for renewable energy."*[72]

3.3 Offset-based product claims

Another commercial practice that the ECGTD has added to the list of practices which are in all circumstances considered unfair concerns so-called 'offset-based product claims'. Point 4c of Annex I of the UCPD (consolidated version) bans the practice of:

> *'Claiming, based on the offsetting of greenhouse gas emissions, that a product has a neutral, reduced or positive impact on the environment in terms of greenhouse gas emissions.'*[73]

The rationale for blacklisting this type of claims, according to the EU legislature, is that 'they mislead consumers by making them believe that such claims relate to the product itself or to the supply and production of that product, or as they give the false impression to consumers that the consumption of that product does not have an environmental impact.'[74] This rationale echoes the position in the case law of several Member States and the legal literature under the general provisions on misleading actions and omissions of the UCPD before the enactment of the ECGTD.[75] As Van Gool has rightly noted: 'claiming that a good, service or organisation's own greenhouse gas emissions have been fully compensated elsewhere is inherently fraught with technical issues'.[76] **Offset-based claims are thus prone to mislead consumers**.

In the financial sector, various financial products (typically funds) are offered to potential retail investors in which claims are made about the environmental impact of investments through offsetting. While financial products do not frequently carry in their names the expressions **'carbon neutral', 'CO2 zero', or 'net zero'**, in other products offset-based claims do appear in the (marketing) description of the product.

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[71] The NRC also 'implemented' the ECGTD. See Stichting Nederlandse Reclamecode, Code voor Duurzaamheidsreclame (CDR) https://www.reclamecode.nl/nederlandse-reclame-code/bijzondere-reclamecodes/#code-voor-duurzaamheidsreclame--cdr- (accessed 15 October 2026).

[72] RCC 21 November 2023, 2023/00446 (Fossielvrij/ING), https://www.reclamecode.nl/uitspraak/?uitspraakId=457358 (accessed 15 October 2026). This was the second time Fossielvrij had successfully challenged ING on its halo claims. See RCC 11 May 2023, 2023/00115 ((Fossielvrij/ING), https://www.reclamecode.nl/uitspraak/?uitspraakId=433506 (accessed 15 October 2026).

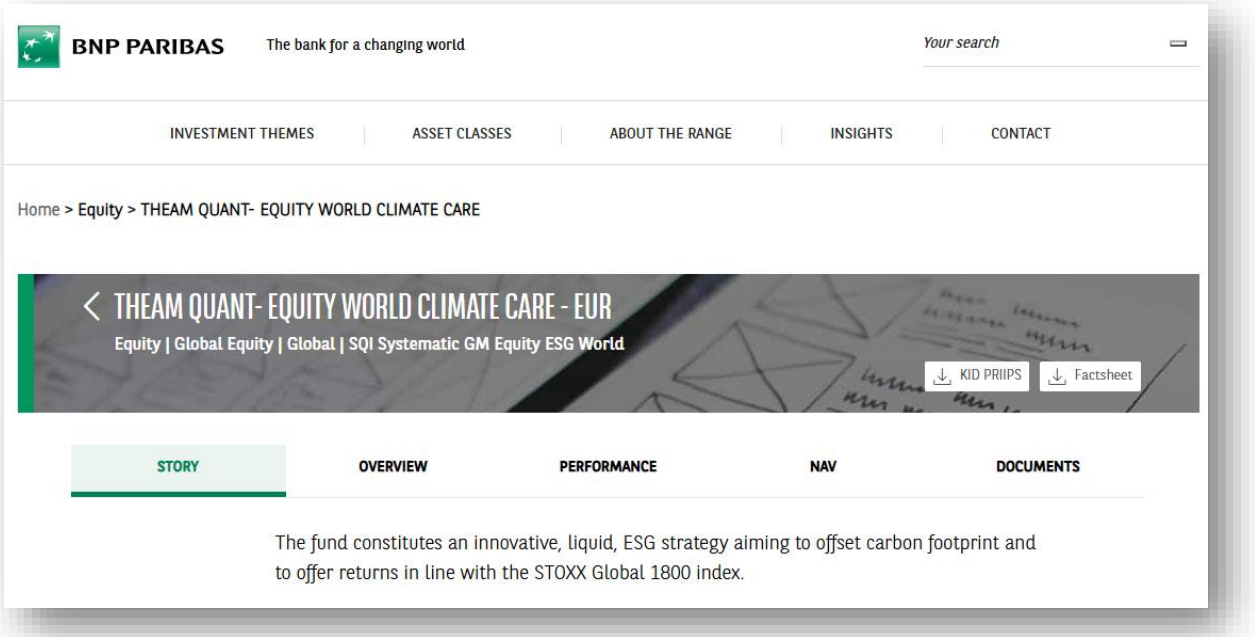
[73] Annex I, under 4c UCPD (consolidated version).

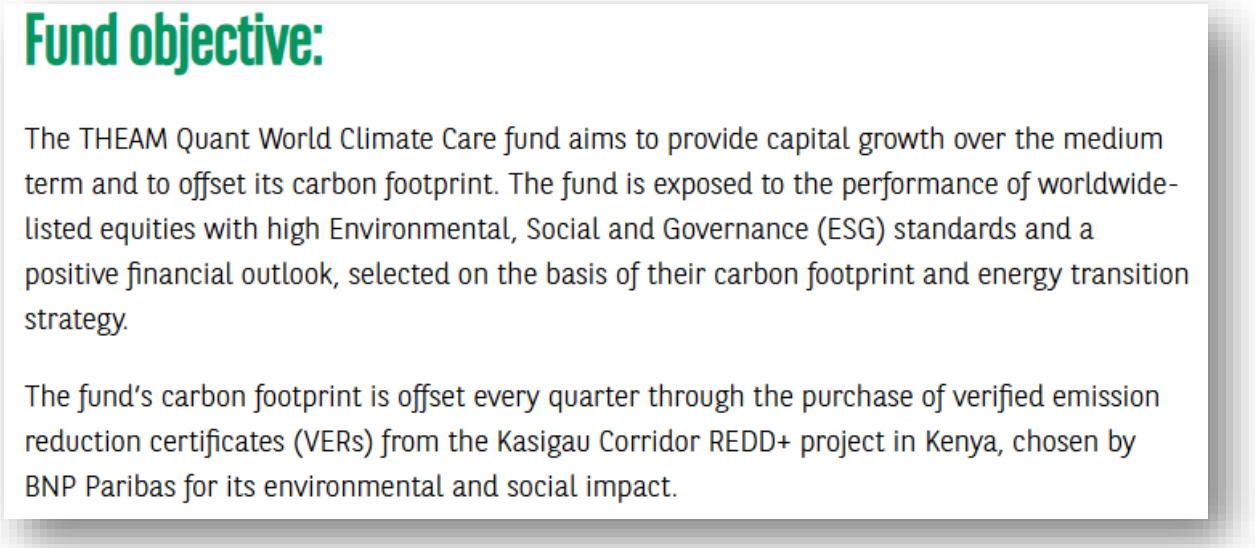
[74] Recital 12 ECGTD. Examples of such claims include: 'climate neutral', 'CO2 neutral certified', 'carbon positive', 'climate net zero', 'climate compensated', 'reduced climate impact' and 'limited CO2 footprint'.

[75] See for example in Austria: District Court Korneuburg (Austria), 29 June 2023, (*Austrian Airlines/Verein für Konsumenteninformation*) https://verbraucherrecht.at/system/files/2023-09/AUA%20U1_geschw%C3%A4rzt.pdf (accessed 15 October 2026); in Germany: Bundesgericht 27 June 2024, I ZR 98/23, ECLI:DE:BGH:2024:270624UIZR98.23.0 (*Katjes*), https://www.bundesgerichtshof.de/SharedDocs/Entscheidungen/DE/Zivilsenate/I_ZS/2023/I_ZR__98-23.pdf?__blob=publicationFile&v=1 (accessed 15 October 2026); and the Netherlands: District Court of Amsterdam (*Rechtbank Amsterdam*) 20 March 2024, ECLI:NL:RBAMS:2024:1512 (*FossielVrij/KLM*), unofficial translation www.clientearth.org/media/cx4po41h/klm-judgment-20-march-2024.pdf (accessed 15 October 2026). See in further detail Commission Guidance 2021, 75 and C. Kaupa, 'Promotion of Greenhouse Gas "Offsetting" as a Misleading Commercial Practice' (2022) 11 *Journal of European Consumer and Market Law*, p. 139-146.

[76] Van Gool 2026, p. 57.

EXAMPLE 5: OFFSET-BASED PRODUCT CLAIM





Source: https://theamquant.bnpparibas-am.com/fundsheet/equity/theam-quant-world-climate-carbon-offset-plan-c-eur-rh-c-lu2051099278/?tab=story (last accessed 15 October 2026)

In this example, BNP Paribas offers a fund of which the carbon footprint is offset through the purchase of VERs from a project in Kenya. This creates the impression that the product has a reduced or positive impact on the environment. Accordingly, it is banned under Point 4c of Annex I of the UCPD.

The ECGTD makes it clear that **offset-based claims are allowed only under very restrictive conditions**. It is held that 'such claims should only be allowed when they are based on the

actual lifecycle impact of the product in question, and not based on the offsetting of greenhouse gas emissions outside the product's value chain, as the former and the latter are not equivalent.'[77] Accordingly, a distinction is made between, on the one hand, legitimate claims regarding **GHG reductions or removals occurring within the value chain of the marketed product** and, on the other hand, prohibited claims about the offsetting of GHG through investments in environmental initiatives, including carbon credit projects outside the product's value chain. Funds such as the BNP Paribas fund in Example 5 above clearly make offset-based claims on the latter, prohibited kind.

The ECGTD allows traders to promote investments in such environmental initiatives, including carbon credit projects, 'as long as they provide such information in a way that is not misleading and that complies with the requirements laid down in Union law.' [78] However, B2C commercial communications regarding any type of **GHG offsetting outside the value chain of the product marketed by the trader are banned**.[79]

Finally, it is important to consider that the prohibition of point 4c Annex I of the UCPD **only concerns product-level offsetting claims, not company-level claims**. This leaves (some) scope for claims regarding the 'carbon neutral', 'climate compensated' or 'net zero' character of the trader.[80] Also, the prohibition's scope is limited to GHGs and does not extend, for example, to biodiversity offsets. However, any kind of offset-based claim that falls outside the scope of the blacklisted commercial practice is still very likely to be caught by other blacklisted practices (see Section 3.1 and 3.2), or the general UCPD provisions on misleading actions (Article 6) or misleading omissions (Article 7) (see Sections 3.5 and 3.6).

3.4 Non-verified sustainability labels

A fourth commercial practice that the ECGTD has added to the list of practices which are in all circumstances considered unfair involves the use of sustainability labels. Point 2a of Annex I of the UCPD (consolidated version) bans the practice of:

> *Displaying a sustainability label that is not based on a certification scheme or not established by public authorities*.[81]

The ECGTD adds to the UCPD the following definitions concerning 'sustainability label' and 'certification scheme', which should be read in conjunction:

"sustainability label" means any voluntary trust mark, quality mark or equivalent, either public or private, that aims to set apart and promote a product, a process or a business by reference to its environmental or social characteristics, or both, and excludes any mandatory label required under Union or national law. [82]

"certification scheme" means a third-party verification scheme that certifies that a product, process or business complies with certain requirements, that allows for the use of a

[77] Recital 12 ECGTD.
[78] Recital 12 ECGTD (*in fine*).
[79] See for a critical discussion of such a non-discriminate ban Van Gool 2026, p. 58-61.
[80] See extensively Van Gool 2026, p. 67-70.
[81] Annex I, under 2a UCPD (consolidated version).
[82] Art. 2(q) UCPD (consolidated version).

corresponding sustainability label, and the terms of which, including its requirements, are publicly available and meet the following criteria:

(i) the scheme is open under transparent, fair, and non-discriminatory terms to all traders willing and able to comply with the scheme's requirements;

(ii) the scheme's requirements are developed by the scheme owner in consultation with relevant experts and stakeholders;

(iii) the scheme sets out procedures for dealing with non-compliance with the scheme's requirements and provides for the withdrawal or suspension of the use of the sustainability label by the trader in case of non-compliance with the scheme's requirements; and

(iv) the monitoring of a trader's compliance with the scheme's requirements is subject to an objective procedure and is carried out by a third party whose competence and independence from both the scheme owner and the trader are based on international, Union or national standards and procedures.[83]

Given these definitions and the requirements they involve, **the scope for the lawful use of sustainability labels** for a product, product category, brand or trader in the context of B2C commercial communications **has been significantly reduced** by the ECGTD.[84] While third-party (accredited) certification across a whole range of consumer products has increased (e.g. electronics, food, forestry, garments, medical devices, etc), retail finance has not witnessed a bloom of such private certification schemes.[85] Nevertheless, traders do occasionally rely on sustainability labels to promote their products. Whenever they do, these labels must be based on a certification scheme or established by a public authority.[86]

EXAMPLE 6: VERIFIED SUSTAINABILITY LABEL



Source:https://www.ecologie.gouv.fr/politiques-publiques/label-greenfin

(last accessed 15 October 2026)

[83] Art. 2(r) UCPD (consolidated version). Recital 7 ECGTD offers examples of these standards and procedures of accreditation and points to: 'ISO 17065 'Conformity assessment – Requirements for bodies certifying products, processes and services' or through the mechanisms provided for in Regulation (EC) No 765/2008 of the European Parliament and of the Council [on requirements for accreditation/PV]'

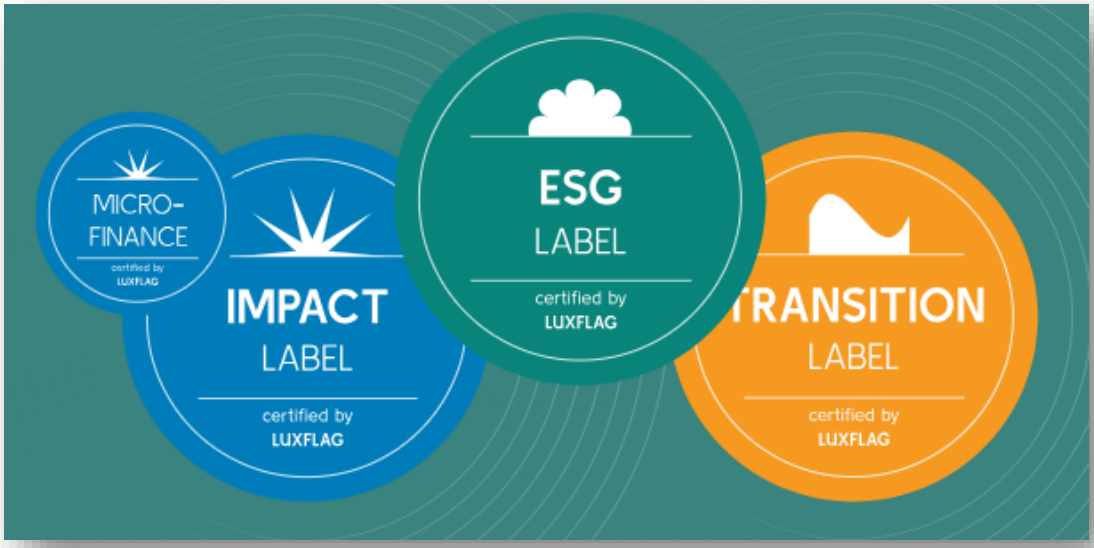
[84] See for a general discussion of the requirements involved with Point 2a of Annex I of the UCPD (consolidated version): E. Paradis, 'Sustainability Labels in the Wake of the Empowering Consumers and (Future?) Green Claims Directive', in: A. De Franceschi, B. Keirsbilck & E. Terryn, *Green Claims and Greenwashing New Rules and Challenges for Businesses and Consumers*, Cambridge: Intersentia 2026, p. 29-31.

[85] See for a discussion of various certification schemes and their legal implications the contributions in P. Rott (ed.), *Certification – Trust, Accountability, Liability*, Cham: Springer International 2019).

[86] The requirement of a certification scheme does not apply to labels established by a public authority or to labels concerning food information to consumers under Art. 35 of Regulation (EU) No 1169/2011. See Recital 7 ECGTD (*in fine*).

This example concerns the Greenfin label. This voluntary label was created in 2015 by the French Ministry of Ecological Transition, and seeks to promote investments in projects and firms that benefit the ecological transition.[87] To that end, it has developed substantive and procedural standards that define – much like the ISO 14024 Type 1 ecolabels for sustainable finance products offered by Österreichische Umweltzeichen and Nordic Swan – which equity, bonds or business activities made be invested in.[88] Currently, Afnor Certification, Bureau Veritas Certification and EY France have been accredited by the Ministry to perform compliance audits.[89] Provided these safeguards stay in place and the firm displaying the label keeps to the standards governing the scheme, the UCPD allows the use of this sustainability label in B2C commercial practices.

EXAMPLE 7: NON-VERIFIED SUSTAINABILITY LABEL



Source: https://luxflag.org/en/our-labels/
(last accessed 15 October 2026)

These voluntary sustainability labels are marketed by LuxFLAG (Luxembourg Finance Labelling Agency), which is a non-profit organization based in Luxembourg that 'provides labelling and verification services for financial products that integrate Impact, ESG, or Transition considerations, according to transparent and robust eligibility criteria.'[90] The founding members of LuxFLAG involve industry actors, but also the government of Luxembourg. Members of government continue to serve on the Board of Directors of LuxFLAG.[91] Nevertheless, the labels are not based on a certification scheme as required by the UCPD. LuxFLAG itself performs the monitoring of compliance with the label's substantive criteria, where the UCPD requires this to be done following 'an objective procedure and is carried out by a third party whose competence and independence from both the scheme owner and the trader are based on international, Union or national standards and procedures.'[92] Accordingly, the UCPD bans the use of the sustainability labels currently offered by LuxFLAG.

[87] https://www.ecologie.gouv.fr/politiques-publiques/label-greenfin (accessed 15 October 2026).
[88] Ministère de la Transition écologique, de la biodiversité et des négotations internationals sur le climate et la nature, *FAQ Label Greenfin France Finance Verte* (10 November 2025), https://www.ecologie.gouv.fr/sites/default/files/documents/les%20questions%20et%20r%C3%A9ponses%20apport%C3%A9es%20aux%20labellisateurs%20sur%20les%20crit%C3%A8res.pdf (accessed 15 October 2026).
[89] https://www.ecologie.gouv.fr/presse/mobiliser-lepargne-benefice-transition-ecologique-label-finance-verte-greenfin-fete-ses-dix (accessed 15 October 2026).
[90] https://luxflag.org/en/who-we-are/ (accessed 15 October 2026).
[91] https://luxflag.org/en/governance/ (accessed 15 October 2026).
[92] Art. 2(r) UCPD (consolidated version). Recital 7 ECGTD offers examples of these standards and procedures of accreditation and points to: 'ISO 17065 'Conformity assessment – Requirements for bodies certifying products, processes and services' or through the

Specific reference is made in Recital 7 of the ECGTD to a particular category of financial products, namely **sustainable debt instruments**. The EU legislature stipulates that:

'Voluntary market-based standards and voluntary public standards for green and sustainable bonds do not primarily target retail investors and are subject to specific laws. For those reasons, those standards should not be considered to be sustainability labels under this Directive.'[93]

The standards referred to include, for example, the Green Bond Principles and Sustainability-linked Bond Principles, both developed by the International Capital Market Association (ICMA),[94] the Climate Bond Standard developed by the Climate Bonds Initiative (CBI),[95] and the Regulation on European Green Bonds and optional disclosures (EuGB).[96] Traders that display any of the labels associated with the ICMA, CBI, or EuGB standards will not be caught by Point 2a of Annex I of the UCPD.

However, this exemption does not exclude the possibility that **the use of private or public labels for sustainable debt instruments is regulated through other blacklisted practices or the general provisions of the UCPD**.[97] This point applies to all sustainability labels, regardless of the product, sector or label involved.[98] For example, Point 4 of Annex I UCPD (consolidated version), prohibits claiming that a trader, the trader's commercial practices, or a product has been approved, endorsed or authorised by a public or private body when that is not the case, or making such a claim without complying with the terms of the approval, endorsement or authorisation. Accordingly, Point 4 complements Point 2a of the Annex. Moreover, any (generic) environmental claim based on the trader's compliance with private or public standards for sustainable debt instruments can be subject to the test set out under Point 4a of Annex I UCPD (consolidated version) on generic environmental claims (Section 3.1), or the general UCPD provisions on misleading actions (Article 6) or misleading omissions (Article 7) (Section 3.5 and 3.6).[99]

3.5 Misleading actions

Article 5(4) of the UCPD determines that, in addition to the blacklisted commercial practices which shall in all circumstances be regarded as unfair (i.e. Annex I), commercial practices shall be unfair if they are misleading as set out in Article 6 (misleading actions) and Article 7 (misleading omissions) of the UCPD. The ECGTD has made two substantive changes to Article 6. First, it added to the description of the **main characteristics of the product** in Article 6(1)(b)

mechanisms provided for in Regulation (EC) No 765/2008 of the European Parliament and of the Council [on requirements for accreditation/PV]'

[93] Recital 7 ECGTD.

[94] ICMA, *Green Bond Principles* (updated June 2025) and ICMA, *Sustainability-linked Bond Principles* (June 2024) both at https://www.icmagroup.org/sustainable-finance/the-principles-guidelines-and-handbooks/ (accessed 30 December 2026).

[95] CBI, Climate Bonds Standard (updated June 2024), https://www.climatebonds.net/data-insights/publications/climate-bonds-standard (accessed 30 December 2026).

[96] Regulation (EU) 2023/2631, OJ L 2023/261.

[97] This point is buttressed by Recital 8 ECGTD ('In cases where the displaying of a sustainability label involves a commercial communication that suggests or creates the impression that a product has a positive or zero impact on the environment, or is less damaging to the environment than competing products, that sustainability label should also be considered as constituting an environmental claim').

[98] See also Paradis 2026, p. 31-32.

[99] The memo does not assess the situation in which a trademark of a financial market participant classifies as a sustainability label. In those cases, the trademark may run afoul of the prohibition of Point 2a of Annex I UCPD. See extensively on this topic P. Callens, 'Can 'Eco' Brands (Trademarks) and Company or Trade Names Survive?' in: A. De Franceschi, B. Keirsbilck & E. Terryn, *Green Claims and Greenwashing New Rules and Challenges for Businesses and Consumers*, Cambridge: Intersentia 2026, p. 149-167.

UCPD environmental or social characteristics. If a trader deceives or is likely to deceive the average consumer, even if the information is factually correct, in relation to the environmental characteristics of the product it engages in a misleading commercial practice. Second, the ECGTD introduced Article 6(2)(b) of the UCPD, which stipulates that making an environmental claim related to '**future environmental performance**' that does not meet certain conditions to substantiate this claim constitutes a misleading commercial practice.

However, the finding that either of these commercial practices is indeed misleading and thus unfair under the provisions of the UCPD depends on whether the commercial practice concerned causes or is likely to cause the average consumer to take a transactional decision that he would not have taken otherwise. This is the so-called **transactional decision test** is constitutive for the finding of a misleading commercial practice under Articles 6 and 7 of the UCPD.[100] This test does not apply to the blacklisted practices featured in Annex I UCPD.[101]

Even though the burden of proof regarding the transactional decision test lies with the claimant in civil lawsuits (the consumer, competitor, or representative organisation) or administrative authority in public enforcement actions, the case law available at Member State level regarding environmental claims reveals that **national enforcement bodies are willing to assume that consumers would have been influenced by the environmental claim in their transactional decision**.[102] In the noted *TotalEnergies* case the District Court Paris held that the disputed environmental claims falsely give 'the impression that purchasing [the defendant's] products or services contributed to a low-carbon economy in line with scientific recommendations under the Paris Agreement' and have thus 'substantially influenced the economic behavior of an average attentive and informed consumer, whose choices, although guided by price, increasingly take into account the environmental qualities of a product or service'.[103] Likewise the District Court of Amsterdam considered in the *KLM/FossielVrij* case that the consumer's decision to enter into a transaction was manipulated by the environmental claims the airline made in B2C commercial communications. More specifically, it held:

> *KLM made the 19 statements so that its public would consider them in its decision-making. In other words, it was reasonably foreseeable for KLM that the economic behaviour of its public would be disrupted in the event of factually incorrect, incomplete and/or misleading information. It is sufficiently plausible that in the event of such information, the average consumer takes or may take a decision about an agreement with KLM that he would not have taken otherwise. Partly relevant here is that the average consumer, from an alertness to climate-related issues, is sensitive to "green" claims.*[104]

[100] Article 2(k) UCPD, which reads: 'transactional decision' means any decision taken by a consumer concerning whether, how and on what terms to purchase, make payment in whole or in part for, retain or dispose of a product or to exercise a contractual right in relation to the product, whether the consumer decides to act or to refrain from acting.'

[101] Recital 17 UCPD ('These are the only commercial practices which can be deemed to be unfair without a case-by-case assessment against the provisions of Articles 5 to 9'). See in further detail Commission Guidance 2021, p. 30-32.

[102] See also Competition and Market Authority (*Autorità Garante della Concorrenza e del Mercato*), Decision No. PS12709 (*Infinite Styles Services Co. Ltd – SHEIN*), 29 July 2025, paras. 70 (on SHEIN's misleading net-zero commitments) and 107 and 121 (on the transactional decision test), www.agcm.it/dotcmsdoc/allegati-news/PS12709%20chiusura.pdf (accessed 15 October 2026).

[103] District Court of Paris (*Tribunal de Paris, 34ème cambre*), 23 October 2025, N° RG 22/02955 - N° Portalis 352J-W-B7G-CWJKL (*Association Greenpeace and others/ TotalEnergies)* [130] and [132], www.amisdelaterre.org/wp-content/uploads/2025/10/decision-total-gw-231025.pdf (accessed 15 October 2026).

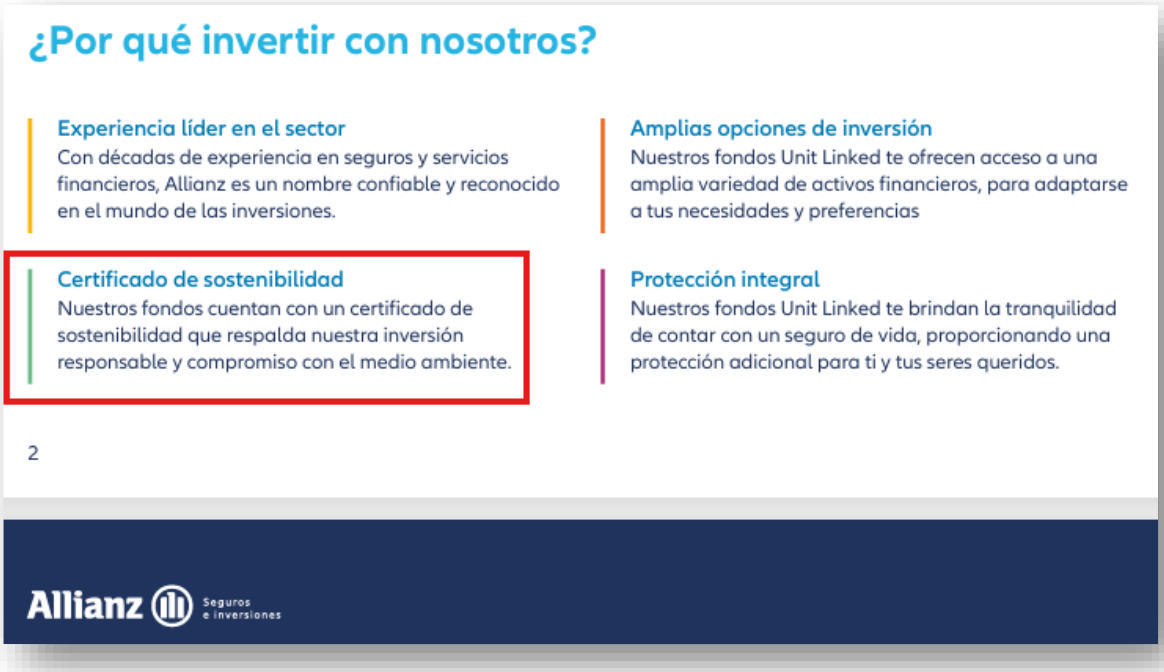
[104] District Court of Amsterdam (*Rechtbank Amsterdam*) 20 March 2024, ECLI:NL:RBAMS:2024:1512 (*FossielVrij/KLM*), para. 4.54, unofficial translation www.clientearth.org/media/cx4po41h/klm-judgment-20-march-2024.pdf (accessed 15 October 2026). See for more background and references to case law: De Franceschi et. al. 2026, p. 22-23.

There is ample empirical evidence that consumers indeed are sensitive to environmental claims,[105] also in the financial sector.[106] Such evidence, along with how traders present sustainability information to consumers about their products and business activities can be integrated into the way in which the average consumer might understand this information.[107]

3.5.1 Environmental characteristics of the product

Article 6(1)(b) of the UCPD (consolidated version) includes 'environmental characteristics' as main characteristics of the product. This implies that any representation made about the environmental characteristics of a product in a B2C commercial communication must be sufficiently clear, precise, accurate and substantiated with up-to-date information such that an average consumer is not misled while taking a transactional decision.

EXAMPLE 8: MISLEADING ACTION



Source: https://www.allianz.es/content/dam/onemarketing/iberolatam/allianz-es/inversiones/productos/unit-linked/folleto_fondovida.pdf (last accessed 15 October 2026)

[105] See e.g. OECD, Empirical study on sustainable consumption, 10 April 2024, OECD Protecting and Empowering consumers in the Green Transition: Misleading Green Claims – May 2025 - https://www.oecd.org/en/publications/protecting-and-empowering-consumers-in-the-green-transition_12f28e4f-en.html; EU Commission «Consumer Conditions Scoreboard» (March 2025) Consumers care about sustainability—and back it up with their wallets, joint study from McKinsey and NielsenIQ, Feb. 2023, according to whom "Products making ESG-related claims averaged 28 percent cumulative growth over the past five-year period, versus 20 percent for products that made no such claims".

[106] Eurobarometer 2022, McKinsey 2023 and BEUC 2025.

[107] See on the concept of the average consumer in the context of financial services and the UCPD, as well as how insights from studies of behavioural economics may be integrated in the transactional decision test Case C-646/22, ECLI:EU:C:2024:957, *Compass Banca*.

In this example, Allianz Spain presents FondoVida – a life insurance policy that is tied to investment funds – as being a sustainable product. In the product leaflet, the trader raises the question: 'Why invest with us?'. The text in the red box, which is flanked by a green ribbon, reads: 'Sustainability Certificate: Our funds have a sustainability certificate that supports our responsible investment and commitment to the environment.' [BEUC translation] The claim is likely to amount to a misleading action as prohibited by Article 6(1) UCPD. It provides information that deceives or is likely to deceive the average consumer around the environmental (or social) characteristics of the product by not being clear about the exact characteristics. The green ribbon suggests environmental, but it remains ambiguous what exactly is meant. Moreover, the use of the word 'certification' implies independent accredited third-party verification (in line with Article 2(r) UCPD). However, the trader does not disclose the certification scheme's substantive and procedural criteria that apply.

It was noted in Section 3.1 that where traders offer 'the specification of an environmental claim in clear and prominent terms on the same medium, such a claim is no longer a generic claim. However, such **specified claims must** still **comply with the requirements set by Article 6 on misleading actions** (and Article 7 on misleading omissions). Accordingly, any specification on the claim made must be sufficiently clear, precise, accurate and substantiated such that an average consumer is not misled while taking a transactional decision.

3.5.2 Future environmental performance claims

Article 6(2)(d) of the UCPD (consolidated version) now also identifies environmental claims regarding 'future environmental performance' as a potentially misleading commercial practice. Such claims have become increasingly popular and take the form of commitments, pledges or other types of **product- or company-level representations through which traders seek to, by a certain date, transition to carbon or climate neutrality** (e.g. 'net-zero by 2050'), **or a similar objective** (e.g. a circular economy).[108] By making such forward-looking statements and integrating them into B2C commercial communications, 'traders create the impression that consumers contribute to a low-carbon economy by purchasing their products.'[109] However, the fairness and credibility of these future environmental performance are contested. Indeed, such claims should not be taken at face value. In the absence of multiple substantiation tests, greenwashing abounds.[110]

Article 6(2)(d) of the UCPD (consolidated version) stipulates **three sets of criteria** determining the lawful use of future environmental performance claims in the context of B2C commercial communications.[111] Should the trader fail to satisfy any of these substantiation requirements, the commercial practice is misleading and thus unfair, provided that the transactional decision test is met.

First, the future environmental performance claim must be based on '**clear, objective, publicly available and verifiable commitments**'.[112] Accordingly, such claims must involve commitments that are sufficiently concrete and detailed, publicly disclosed and based on a

[108] Recital 4 ECGTD.
[109] Ibid.
[110] See for a detailed discussion of future environmental performance claims (also known as 'climate-washing', 'greenwishing', and 'climate pledges'), their credibility concerns and regulatory approaches against them P. Verbruggen, 'Towards credible corporate net-zero commitments? On the role of unfair commercial practices law in contesting global value chain greenwashing', in: D. Bose, A. Lafarre, R. Garcia Anton, B. Rombouts, & P. Verbruggen (eds.), *Cambridge Handbook of Law and Responsible Business: Legal Strategies for Sustainability in Global Value Chains*, Cambridge: Cambridge University Press 2026, p. 355-380.
[111] Cf. Van Gool 2026, p. 76-82.
[112] Art. 6(2)(d) UCPD (consolidated version).

solid and measurable benchmark, protocol or standard of some sort.[113] In the financial sector, the 'IFRS S2 Climate-related Disclosures standard[114] and the UN Net-Zero Asset Owners Alliance 'Target-Setting Protocol'[115] are widely adopted **private standards** that help to meet this first set of substantiation requirements. Vague and unsupported statements about climate ambitions or best efforts to become a climate leader will not do. Not only are they likely to be considered generic environmental claims under Point 4a Annex I of the UCPD (consolidated version), but they will also face scrutiny under Article 6(1)(b) UCPD (Section 3.5.1) or misleading omissions of Article 7 UCPD (Section 3.6). If this is the case, Point 4a of Annex I, UCPD will give consumers, their representatives or public enforcement authorities a clear evidentiary benefit in proving the unfairness of the commercial practice since the transactional decision test does not need to be satisfied in that case.

Second, the commitments made in the future environmental performance claim must be 'set out in a **detailed and realistic implementation plan** that includes measurable and time-bound targets and other relevant elements necessary to support its implementation, such as allocation of resources'.[116] What is 'detailed and realistic' must, by definition, be determined on a **case-by-case assessment**, taking all relevant circumstances into consideration. As to the implementation plan, the ECGTD stipulates further that the implementation plan '**should include all the relevant elements necessary to fulfil the commitments, such as budgetary resources and technological developments**, where appropriate and in accordance with Union law.'[117] This plan will determine how, *in concreto*, the trader undertakes to achieve its commitments. The resources available (budget, technologies) and interim targets (e.g. 50% and 80% GHG emissions reduction in 2030 or 2040) should match the specified end target (e.g. net zero by 2050). Article 6(2)(b) of the UCPD (consolidated version) does not exclude implementation plans that involve the offsetting of GHG through investments in environmental initiatives, including carbon credit projects or carbon removals. Leading standards in the sector allow for the use of carbon offsetting technologies, although under strict conditions.[118] Again, compliance with these standards will be instrumental in demonstrating – in line with Article 12 UCPD – that the trader has substantiated its future environmental performance claim.

Third, the implementation plan must be 'regularly verified by an independent third party expert, whose findings are made available to consumers.'[119] The Recitals to the ECGTD clarify that:

> *"Such claims should also be verified by a third party expert, who should be independent from the trader, free from any conflicts of interest, with experience and competence in environmental issues and who should be able to monitor the progress of the trader regularly with regard to the commitments and targets, including the milestones for*

[113] Widely acknowledged standards include The Climate Pledge www.theclimatepledge.com Pledge to Net Zero <www.pledgetonetzero.org/> and SBTi https://sciencebasedtargets.org/, and ISO, *Net Zero Guidelines* (IWA:42:2022) www.iso.org/obp/ui/en/#iso:std:iso:iwa:42:ed-1:v1:en (all accessed 15 October 2026). In the financial sector, the following standards are used: IFRS S2 Climate-related Disclosures' which is developed by the International Sustainability Standards Board of the International Financial Reporting Standards (IFRS) Foundation. IFRS Foundation, 'IFRS Sustainability Standards Navigator' www.ifrs.org/issued-standards/ifrs-sustainability-standards-navigator/ and UN Net-Zero Asset Owners Alliance Target-Setting Protocol (March 2026) 60-AOA-Target-Setting-Protocol-5.pdf (both accessed 15 October 2026).

[114] IFRS Foundation, 'IFRS Sustainability Standards Navigator' www.ifrs.org/issued-standards/ifrs-sustainability-standards-navigator/ (accessed 15 October 2026).

[115] UN Net-Zero Asset Owners Alliance Target-Setting Protocol (March 2026) 60-AOA-Target-Setting-Protocol-5.pdf (accessed 15 October 2026).

[116] Art. 6(2)(d) UCPD (consolidated version).

[117] Ibid.

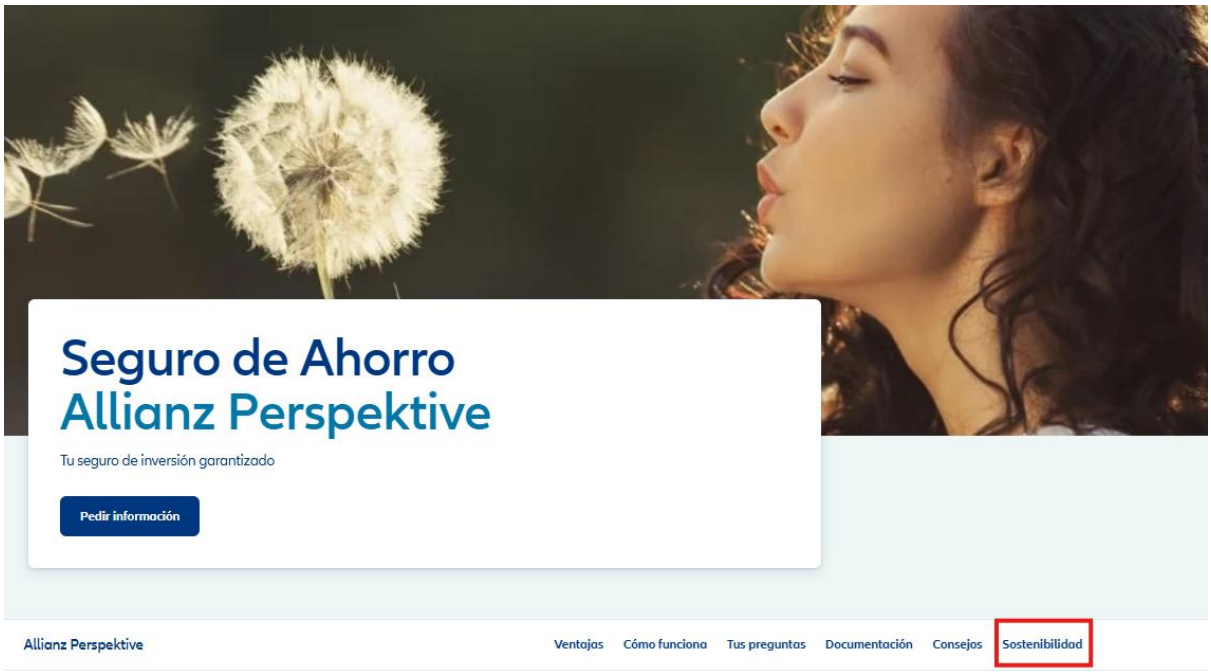
[118] See for example UN Net-Zero Asset Owners Alliance Target-Setting Protocol (March 2026), at T35-T39. See in general Van Gool 2026, p. 78.

[119] Art. 6(2)(d) UCPD (consolidated version).

achieving them. Traders should ensure that the regular findings of the third party expert are available to consumers." [120]

Independent, expert-based third-party verification is thus identified as the mode through which the claims and underpinning implementation plans must be assessed and reviewed. The amendment of prior-set periods (the base year, the intermediary and end targets) or the assessment of attainment of intermediate targets would logically require such verification. Leading standards in the sector further determine the frequency, incidence and/or period of review.[121] The findings of the verifiers should be 'made available to consumers' to offer trustworthiness, reliability and accountability to consumers. Such **public disclosure enables the 'evidentiary scrutiny'** by courts and enforcement agencies as to the adequacy, integrity and efficacy of the implementation plans that support the commitments.[122]

EXAMPLE 9: PRODUCT-LEVEL FUTURE ENVIRONMENTAL PERFORMANCE CLAIM



La característica ecológica de este producto es la obligación a largo plazo de alcanzar las cero emisiones netas de THG para el año 2050, de conformidad con el protocolo de establecimiento de objetivos de la Alianza de Propietarios de Activos. Es decir, que ayudamos a las empresas en que invertimos a conseguir incentivos y les requerimos que presenten una ruta de descarbonización armonizable con el objetivo de 1,5 °C del Acuerdo de París.

Source: https://www.allianz.es/seguro-de-ahorro.html#sostenible (last accessed 15 October 2026)

In this example, Allianz Spain promotes its life-insurance product Seguro de Ahorro – an Article 8 product following the SFDR categorisation – as a sustainable financial product. As part of its obligations under the

[120] Recital 4 ECGTD.
[121] The UN Net-Zero Asset Owners Alliance Target-Setting Protocol (March 2026) requires (at T42) annual public disclosure of reports.
[122] Luca Tenreira, 'Greenwashing Investigated in the Landscape of Global Value Chains' (2025) 37 *Journal of Environmental Law* 2, 175–184, p. 177.

SFDR (see in detail Section 4.2.1 below), it discloses the sustainability-related information about the product it offers under the tab 'Sostenibilidad'. After clicking on the tab, the text in the red box under the heading 'Environmental or Social Characteristics of the Financial Product' appears. It reads: "The eco-friendly feature of this product is the long-term obligation to reach net-zero GHG emissions by 2050, in accordance with the Asset Owners Alliance target-setting protocol. In other words, we help the companies in which we invest to obtain incentives and require them to present a decarbonisation path that is harmonisable with the 1.5°C target of the Paris Agreement." [translation by BEUC]

This information discloses that Allianz's commitment to net-zero GHG emissions by 2050 is backed up by the objective protocol provided by UN-sponsored Net-Zero Asset Owners Alliance (AOA). However, the protocol does not prescribe independent third-party verification as required by Article 6(2)(d) of the UCPD (consolidated version). Instead, the protocol strongly recommends third-party assurance but does not require it.[123] Accordingly, the product-specific future environmental performance claim falls short of what Article 6(2)(d) UCPD (consolidated version) requires from traders making such claims.[124] In the absence of proper and unambiguous substantiation, such claims are prohibited if the transactional decision test is satisfied.

Read together, the substantiation criteria of Article 6(2)(d) require future environmental performance claims to be supported through up-to-date evidence that aligns with scientific methods and findings. Accordingly, **the ECGTD consolidates the requirements to adopt clear, verifiable and effective net-zero claims** that courts and administrative authorities had previously established under the general provisions of Article 6 and 7 of the UCPD (old).[125] Nevertheless, **Article 6(2)(b) ECGTD provides important additional regulatory details** to substantiate future environmental performance claims and ensure fairness and credibility of such claims when they are made in the context of B2C commercial communications.

3.6 Misleading omissions

Article 7(1) UCPD stipulates that: 'A commercial practice shall be regarded as misleading if, in its factual context, taking account of all its features and circumstances and the limitations of the communication medium, it omits material information that the average consumer needs, according to the context, to take an informed transactional decision and thereby causes or is likely to cause the average consumer to take a transactional decision that he would not have taken otherwise'. **Material information** is 'all the information which the average consumer needs to make an informed purchasing decision', but whether information qualifies as 'material' must be assessed on a case-by-case basis.[126] **Art. 7(5) UCPD** adds to this general approach that: 'Information requirements established by Community law in relation to commercial communication including advertising or marketing, a non-exhaustive list of which is contained in Annex II, shall be regarded as material.' This is an important addition for the

[123] Net-Zero Asset Owners Alliance, *Target Setting Protocol* (March 2026), T97 read together with T3 (https://www.unepfi.org/wordpress/wp-content/uploads/2026/03/60-AOA-Target-Setting-Protocol-5.pdf (accessed 15 October 2026).

[124] Elsewhere, the corporate entity of Allianz – i.e. not Allianz Spain and in no relation to the life-insurance product Seguro de Ahorro – does claim that the 'Net-Zero Transition Plan as disclosed in the Sustainability Statement of the 2025 Allianz Group Annual Report, together with the Supplementary Information 2026, has been verified by an independent third-party expert.' However, the verification report is not disclosed. See https://www.allianz.com/en/sustainability/sustainability-hub/sustainability-at-allianz/climate-change.html (accessed 15 October 2026). Similar statements appear on the website of the Hungarian entity of Allianz, yet these statements appear to be outdated as they refer to documentation of 2023. See Allianz Hungaria Zrt., 'Fenntarthatosag' ('Sustainability'), https://www.allianz.hu/hu_HU/lakossagi/fenntarthatosag/fenntarthatosag.html (accessed 15 October 2026).

[125] See also extensively De Franceschi et. al. 2026, p. 52-56.

[126] Commission Guidance 2021, p. 50.

financial sector, since **various measures of secondary EU financial law involve information requirements** established for commercial communications. Several of these are listed in Annex II of the UCPD. If these requirements are not met in B2C commercial communications, material information is withheld from the consumer and, as a result, the trader involved engages in a misleading omission. This nexus of interplay between the UCPD and EU financial law is further explored in Section 4.2.4 below.

Examples of misleading omissions in retail finance may involve the statement of a financial market participant or financial adviser that a fund invests in companies that are concerned with the energy transition, but does not disclose that the conditions of the fund allow for a maximum of 5% investments in companies that are engaged with production activities around fossil fuels.[127] In addition, company-level halo claims such as those discussed in Example 5 (Section 3.2) may be caught by Article 7(1) UCPD provided that the transactional decision test is met. Another example of a prohibited omission may involve a company claiming to commit to climate or carbon neutrality by 2050 without properly disclosing that its commitment only covers scope 1 and scope 2 emissions.[128] Whether excluding scope 3 emissions is material information for the consumer must be determined on a case-by-case basis, although scope 3 emissions usually tend to significantly exceed scope 1 and scope 2 emissions, in particular in financial products such as Article 8 or Article 9 funds under the SFDR.

The ECGTD has added **Article 7(7) UCPD**, which stipulates: 'Where a trader provides a service which compares products and provides the consumer with information on environmental or social characteristics or on circularity aspects, such as durability, reparability or recyclability, of the products or suppliers of those products, information about the method of comparison, the products which are the object of comparison and the suppliers of those products, as well as the measures in place to keep that information up to date, shall be regarded as material information.' This implies that if a trader compares (online) financial products while providing consumers with data on environmental or social characteristics or on circularity aspects, or **comparative claims** are made on this basis, the trader must disclose the method of comparison, the products serving as the object of comparison, and the suppliers of those products, as well as the measures in place to keep that information up to date. If consumers are not provided with such material information, the trader engages in a misleading omission.

[127] Example derived from an example highlighted as bad practice by Autoriteit Financiële Markten, *Eerlijke duurzaamheidsclaims: wat verwacht de AFM van u?* (2026) https://www.afm.nl/nl-nl/sector/themas/duurzaamheid/duurzaamheidsclaims (accessed 15 October 2026), p. 2.
[128] Van Gool 2026, p. 84 and De Franceschi et. al. 2026, p. 51-52 (both with reference to the *TotalEnergies* case before the District Court of Paris).

4 The Interplay between UCPD and EU Financial Law

Sections 2 and 3 already highlighted a number of ways in which the UCPD and secondary EU law measures regarding financial products and services interact with the UCPD. This Section deepens the modes of interplay, first, by classifying the general relationship between the UCPD and EU financial law (Section 4.1) and second, by identifying four specific nodes of interaction (Section 4.2). In this way, this Section answers the question: *how do the information requirements set by EU financial regulation relate to the substantive UCPD norms?*

4.1 Complementarity as the general mode of interplay

As noted in Section 2.1 above, the UCPD is **horizontal** in its **application**. This means that the provisions of the Directive apply to B2C commercial practices across all domains of commerce, including financial retail services.[129] The UCPD provisions complement sector-specific EU legislation that regulates aspects of unfair B2C commercial practices in the domain concerned. As such, the UCPD offers a general legal **'safety net'** ensuring that 'a high common level of consumer protection against unfair commercial practices can be maintained in all sectors, including by complementing and filling gaps in other EU law'.[130]

However, it follows from **Article 3(4) UCPD** that where primary or secondary EU legislation, sector-specific or other, is in place and its provisions overlap with the provisions of the UCPD, the corresponding provisions of the *lex specialis* will prevail.[131] Three cumulative conditions govern the setting aside of the UCPD in case of overlap:

1. The provisions of the *lex specialis* have the status of EU law,
2. These provisions regulate a specific aspect of commercial practices, such as information requirements and rules on the way the information is presented to the consumer, and;
3. There is a conflict between these provisions and the UCPD or the content of the other EU law provision overlaps with the content of the relevant UCPD provision, for instance by regulating the conduct at stake in a more detailed manner and/or by being applicable to a specific sector.[132]

Regarding condition 3, a 'conflict' is present only, according to the case law of the CJEU, where 'provisions, other than those of [the UCPD], which regulate specific aspects of unfair business practices, impose on undertakings, in such a way as to *leave them no margin for discretion*, obligations which are incompatible with those laid down in [the UCPD].'[133] This implies that only where the sector-specific EU provisions stipulate what and how information must be presented to consumers in commercial communications and, as such, provide a comprehensive and exhaustive legal framework that is in conflict with the UCPD, the UCPD provisions will not apply.[134] If, by contrast, **the sector-specific EU provisions leave a margin of discretion to traders, or there is no dissonance between the information requirements**

[129] Commission Guidance 2021, p. 5.
[130] *Ibid*, p. 8.
[131] Art. 3(4) UCPD (consolidated version): 'In case of conflict between the provisions of this Directive and other Community rules regulating specific aspects of unfair commercial practices, the latter shall prevail and apply to those specific aspects'. See also Recital 10 UCPD.
[132] Commission Guidance 2021, 8.
[133] Joined cases C-54/17 and C-55/17, ECLI:EU:C:2018:710, *Autorità Garante della Concorrenza e del Mercato v Wind Tre SpA and Vodafone Italia SpA*, 13 September 2018, para. 61 (emphasis added)
[134] See e.g. Case C-632/16, ECLI:EU:C:2018:599, *Dyson*, 25 July 2018 (regarding energy labels that inform end-users as to the energy consumption of certain products) and Case C-363/19, ECLI:EU:C:2020:693, *Mezina*, 10 September 2020 (regarding nutrition and health claims made on foods).

of sector-specific EU rules, the UCPD continues to apply in a complementary manner. In that case, the more specific requirements laid down in sector-specific rules will add to and complement the general requirements set out in the UCPD.[135]

It follows from this that, in cases where there is no conflict between sector-specific EU rules and the UCPD, **that compliance with sector-specific rules does not immunize traders from scrutiny and liability under the UCPD**. Accordingly, both national courts and administrative authorities at the Member State level remain competent to hear cases, initiate enforcement action against traders based on the national implementing laws of the UCPD, and sanction non-compliance.

The **secondary EU financial law in scope of this legal study** (see Section 1.2.1) involves provisions that are **not in conflict with the UCPD** regarding the way in which information must be presented in B2C commercial communications. In general terms, this collection of secondary EU financial law includes rules that align with the general provisions of the UCPD and add to those for the purposes of the information that must be disclosed in commercial communications about the financial products and services concerned. These secondary EU laws contain the following provisions (in alphabetical order):

- AIFMD, Article 23(7);
- CBDF Regulation, Article 4;
- IDD, Articles 17 and 20(7);
- MIFID II, Article 24(3);
- PRIIPs Regulation, Articles 6 and 11(1);
- Prospectus Regulation, Articles 6 and 22(3);
- SFDR, Articles 10 and 13 SFDR;
- UCITS Directive, Articles 78 and 79.

Pursuant to its competences under the AIFMD, CBDF Regulation and UCITS Directive, **ESMA** has developed **guidelines on funds' names using ESG or sustainability-related terms**.[136] The guidelines apply to UCITS management companies and Alternative Investment Fund managers and are relevant to all commercial communications addressed to investors or potential investors for UCITS and AIFs, professional or retail investors alike.[137] In its guidance, ESMA identifies the name of a fund as a means of commercial communication that 'can have a significant impact on their investment decision' and accordingly is 'an important marketing tool for the fund'.[138] With the guidelines, ESMA seeks to 'specify the circumstances where the fund names using ESG or sustainability related terms are unfair, unclear or misleading.'[139]

The common core of the secondary EU law and ESMA guidelines listed above is that the marketing information shared publicly (e.g. through commercial communications) about the regulated financial products or activities must be fair, clear and not misleading. This body of regulation is not in conflict with the UCPD.[140] Rather, it offers a sector-specific equivalent of the general provisions of Article 5, 6 and 7 of the UCPD, which **complement the UCPD**.

[135] See Commission Guidance 2021, 9 and Joined Cases C 544/13 and C-545/13, ECLI:EU:C:2015:481 *Abcur AB v Apoteket Farmaci AB and Apoteket AB*, 16 July 2015.
[136] ESMA, *Guidelines on funds' names using ESG or sustainability-related terms* (21 August 2024) ESMA34-1592494965-657, https://www.esma.europa.eu/sites/default/files/2024-08/ESMA34-1592494965-657_Guidelines_on_funds_names_using_ESG_or_sustainability_related_terms.pdf (accessed 15 October 2026).
[137] *Ibid*, p. 3.
[138] *Ibid*, p. 6.
[139] *Ibid*, p. 6.
[140] Art. 17(2) IDD even holds that its information requirements are '[w]ithout prejudice to Directive 2005/29/EC'.

4.2 Specific nodes of interplay

What is more, rules included in the secondary EU financial laws in scope of this legal study may serve to **operationalise the open norms featuring in core provisions of the UCPD**. This paragraph will analyse whether these secondary laws may help to demonstrate 'recognised excellent environmental performance' to justify a generic environmental claim (4.2.1) or displaying a 'sustainability label' (4.2.2). Moreover, it will assess the extent to which these laws link to the concepts of 'misleading' in Article 6(1) and (2) UCPD (4.2.3), and in Article 7(1) and (2) UCPD (4.2.4).

4.2.1 Generic environmental claims and EU financial law

As described in Section 3.1, the UCPD prohibits the making of generic environmental claims. Such claims are only allowed where the trader can show 'recognised excellent environmental performance relevant to the claim'.[141] While sustainable finance products certified under the Österreichisches Umweltzeichen and Nordic Swan scheme can demonstrate such excellence and thus justify generic claims like 'sustainable investment product', the question arises of whether the product categories of 'Article 8' and 'Article 9' products under the SFDR or fund names aligning with the 2024 ESMA Guidelines on fund names using ESG or sustainability-related terms can serve the same purpose.

4.2.1.1 'Article 8' and 'Article 9' products under the SFDR

As noted in Section 3.1, the product categories have been presented as 'light green products' respectively 'dark green products', or more generally as 'sustainable' all together. Can the SFDR be relied on to justify these claims under Point 4a of Annex I, UCPD?

The **SFDR** stipulates disclosure obligations for financial market participants and financial advisers regarding the provision of sustainability-related information about financial products offered in the EU, including AIFs, IBIPs, pension products, investment portfolio, and UCITS. These mandatory obligations vary across three categories of financial products: 'Article 6', **'Article 8' and 'Article 9' products**. Whereas the first category (also known as a 'grey product') comprises financial products that financial market participants and financial advisers decide not to promote as sustainable, the latter two categories are concerned with sustainability. Article 8 products ('light green products') promote environmental or social characteristics. Article 9 products ('dark green products') have as their objective sustainable investments. For Article 8 and 9 products, the information disclosed must explain to what extent the underlying investments are **'Taxonomy-aligned'**.[142] This means that it should be clear to what extent these investments qualify as 'environmentally sustainable' under the Taxonomy Regulation.[143] To warrant qualification as an Article 9 product, the financial product must meet the SFDR 'sustainable investment' definition of Article 2(17) SFDR, including the **Do No Significant Harm (DNSH) principle**. This principle, which is also incorporated for environmental objectives in the

[141] Annex I, under 4a UCPD (consolidated version).
[142] Art. 8(2a) and Art. 9(4a) SFDR (consolidated version).
[143] Arts. 3(a) and 9 Taxonomy Regulation, which considers an investment as 'environmentally sustainable' only if it contributes significantly to any of these six objectives: a) climate change mitigation; (b) climate change adaptation; (c) the sustainable use and protection of water and marine resources; (d) the transition to a circular economy; (e) pollution prevention and control; and (f) the protection and restoration of biodiversity and ecosystems.

Taxonomy Regulation,[144] requires that all underlying economic activities in which the product makes investments should not significantly harm any other environmental objective, nor may they significantly harm any social objectives identified in Article 2(17) SFDR.[145] Moreover, investee companies must follow good governance practices, in particular with respect to sound management structures, employee relations, remuneration of staff and tax compliance.[146] Finally, an Article 9 product must ensure that its sustainability objective is measurable, progress on the attainment of the objective is monitored and **periodic (website) disclosures** occur on the actual environmental impact once investments in the underlying business activities are made. Any of these disclosures **must be 'accurate, fair, clear, not misleading, simple and concise**.'[147]

Compliance with these **SFDR disclosure requirements** is an important building block in preventing greenwashing in the financial sector. However, they **cannot be said to constitute standards that amount to 'recognised excellent environmental performance'** of financial products or the actors offering these products under the UCPD. While Article 8 and 9 products may seek to further environmental characteristics, or sustainable objectives, the question is whether they can meet the standard the UCPD sets, namely excellent environmental *performance*. Clearly, aspirations and outcomes may diverge. The test under the UCPD is the accomplishment or realisation of environmental benefits, not merely the ambition to promote or achieve environmental sustainability. While Article 8 and 9 products differ in their degree of discretion for investments in underlying non-sustainable business activities, **the SFDR currently does not rule out non-sustainable investments under these product categories and may thus hamper environmental performance**.[148] It may, for example, be that the investments are beneficial to decarbonisation but – although not significantly – negatively impact biodiversity.

What is more, **the degree of 'excellence' of some environmental objectives approved by the Commission under the Taxonomy Regulation are contested**. In 2022, the Commission has approved specific nuclear energy and gas-related activities to qualify as 'transitional activities' under the Taxonomy Regulation,[149] which has met fierce criticism from both civil society and

[144] Arts. 3(b) and 17 Taxonomy Regulation. See further European Securities and Markets Authority (ESMA), '"Do No Significant Harm" Definitions and Criteria Across the EU Sustainable Finance Framework' (November 2023) ESMA30-379-2281 at https://www.esma.europa.eu/sites/default/files/2023-11/ESMA30-379-2281_Note_DNSH_definitions_and_criteria_across_the_EU_Sustainable_Finance_framework.pdf (accessed 15 October 2026).
[145] Commission Delegated Regulation (EU) 2022/1288 OJ 2022 L 196/1 has offered 'regulatory technical standards specifying the details of the content and presentation of the information in relation to the principle of 'do no significant harm', specifying the content, methodologies and presentation of information in relation to sustainability indicators and adverse sustainability impacts, and the content and presentation of the information in relation to the promotion of environmental or social characteristics and sustainable investment objectives in pre-contractual documents, on websites and in periodic reports'. In addition, the European Supervisory Authorities (ESAs) have provided guidance on disclosures of principal adverse impact (PAI) and Do Not Significantly Harm (DNSH). See ESAs, *Clarifications on the ESAs' draft RTS under SFDR* (2 June 2022), https://www.esma.europa.eu/sites/default/files/library/jc_2022_23_-_clarifications_on_the_esas_draft_rts_under_sfdr.pdf (accessed 15 October 2026).
[146] Art. 9(1) read together with Art. 2(17) SFDR.
[147] Arts. 9(5) and 10(1) SFDR.
[148] For Article 8 products, there is no mandatory minimum proportion of sustainable investments. For Article 9 products, ESMA has offered guidance on how to select, weigh or exclude underlying assets in such a manner that the resulting benchmark portfolio meets the intended sustainability objectives (e.g. decarbonisation). See (ESMA), '"Do No Significant Harm" Definitions and Criteria Across the EU Sustainable Finance Framework' (November 2023) ESMA30-379-2281 at https://www.esma.europa.eu/sites/default/files/2023-11/ESMA30-379-2281_Note_DNSH_definitions_and_criteria_across_the_EU_Sustainable_Finance_framework.pdf
[149] See Commission Delegated Regulation (EU) 2022/1214 of 9 March 2022 amending Delegated Regulation (EU) 2021/2139 as regards economic activities in certain energy sectors and Delegated Regulation (EU) 2021/2178 as regards specific public disclosures for those economic activities OJ 2022 L 188/1.

Member States.[150] While Article 8 and Article 9 products may thus be clearly linked to environmentally sustainable investments, they do not warrant top environmentally sustainable outcomes. Accordingly, they cannot be seen to show recognised excellent environmental performance under the UCPD.

Another argument against considering Article 8 and Article 9 products, and the SFDR disclosure obligations that follow from it, as 'recognised excellent environmental performance' is that, currently, compliance with these obligations relies on self-assessment by financial market participants and financial advisers. **Self-assessment under the SFDR must not be viewed as *recognised* excellent environmental performance**. By contrast, the ecolabels of the Österreichisches Umweltzeichen and Nordic Swan regarding sustainable financial products constitute ISO 14024 Type 1 ecolabels. Labelled products have undergone an independent third-party accredited certification. As noted in Section 3.1, these ecolabelling schemes impose criteria that go beyond compliance with the Taxonomy Regulation and the disclosure obligations under Article 8 or Article 9 of the SFDR, and add specific benchmarks (%) for holdings in equities, corporate bonds and/or eligible green bonds, and use exclusion criteria for investments in certain types of activities or investees. Accordingly, these ecolabels seek to distinguish themselves from regular Article 8 and Article 9 products, and set a distinctively higher standard – one of excellence – for environmental performance.

What is more, it should be noted that **Article 8 and Article 9 products do not necessarily involve environmental characteristics or objectives**. Where these products focus exclusively on social objectives, they will not show excellent *environmental* performance of course. In that event, they cannot serve as a justification for a generic environmental claim that is relevant to the entire claim.

The views in the scholarly literature that is now developing **align with the position taken here**. In their analysis of the link between the UCPD and the EU Sustainable Finance Framework, Prof. Niels Rogge and Laura Geeroms consider that 'transitional activities under the EU Taxonomy (…) do not qualify as such 'recognised excellent environmental performance'.[151] Prof. Lieverse has, more generally, argued that the Taxonomy Regulation is a type of source that in its nature differs strongly from the examples of rules listed by the ECGTD that can demonstrate recognised excellent environmental performance. She concludes that:

'It means that transparency following the SFDR about an Art. 9 product does not rule out that the communication concerned is blacklisted. The consequence of this is that in relevant cases an additional description and transparency will be needed to prevent deception.'[152]

The consequence of complying with the information disclosure requirements of the SFDR is that financial market participants and financial advisers specify the otherwise generic environmental claim, thereby **placing the claim outside the purview of Point 4a of Annex I, UCPD, but into the realm of Articles 6 and 7 UCPD** (see Sections 4.2.3 and 4.2.4). In that context, compliance with SFDR disclosure duties may assist traders in making legitimate claims about the sustainability characteristics of the financial retail products and services

[150] See e.g. action brought on 18 April 2023 , Case T-214/23, *Greenpeace and Others v Commission* and General Court of the European Union 10 September 2025, Case T-625/22, ECLI:EU:T:2025:869, *Austria v. Commission*.
[151] See also N. Rogge and L. Geeroms, 'Green Standards and Grey Areas: The EU Sustainable Finance Framework and the Unfair Commercial Practices Directive', 21(1) *Capital Markets Law Journal* 2026 https://doi.org/10.1093/cmlj/kmag005, p. 13.
[152] C.W.M. Lieverse, 'De anti-greenwashingrichtlijn: de impact op de financiële sector', (9) *Maandblad voor Vermogensrecht* 2026, p. 233 (translation PV).

offered, meaning that these claims are sufficiently clear, precise, accurate and substantiated such that they do not mislead an average consumer while taking a transactional decision.

4.2.1.2 Fund names complying with 2024 ESMA Guidelines

A similar question emerges as to the interplay between Point 4a of Annex I, UCPD and ESMA Guidelines on fund names (UCITS and AIFs) using ESG or sustainability-related terms: does compliance with these guidelines provide evidence of recognised excellent environmental performance as required under Point 4a of Annex I, UCPD? This question should be answered in the negative. Like the disclosure requirements under the SFDR, the ESMA guidelines do not warrant excellent environmental *performance*. The guidelines reserve use of transition-, social- and governance-related terms to meet 'an 80% threshold linked to the proportion of investments used to meet environmental or social characteristic or sustainable investment objectives.'[153] This implies that, in such funds, a maximum of 20% of the investments may still be allocated to non-sustainable investment objectives. What is more, compliance with the ESMA guidelines relies on self-assessment by fund managers. Both aspects sustain the conclusion that **compliance with the ESMA guidelines does not amount to excellent environmental performance under Point 4a of Annex I, UCPD**.

In essence, the consequence of complying with the ESMA guidelines is that UCITS management companies and Alternative Investment Fund managers specify the otherwise generic environmental claim that follows from the fund name. As such, **compliance places the claim outside the scope of Point 4a of Annex I, UCPD.** Still, **Articles 6 and 7 UCPD serve as a safety net to assess whether the average consumer may be misled** by the information that UCITS management companies and Alternative Investment Fund managers disclose or omit in the B2C commercial communication promoting the relevant funds (see Sections 4.2.3 and 4.2.4). In that context, compliance with the ESMA guidelines may help UCITS management companies and Alternative Investment Fund managers to ensure that all commercial communications addressed to investors or potential investors for UCITS and AIFs are fair, clear and not misleading.[154]

4.2.2 Non-verified sustainability labels and EU financial law

It was noted in Section 3.4 that the commercial practice of displaying sustainability labels that are not based on a certification scheme or not established by public authorities is prohibited under the UCPD.[155] The question emerges of how this ban relates to the market practice that has developed in the absence of an EU-wide labelling scheme for ESG funds, namely that financial market participants and financial advisers have used **Article 8 and Article 9 SFDR as a quasi-label for the sustainability** of financial products in marketing practices.

Any voluntary use of 'Article 8' and 'Article 9' for financial products regulated under the SFDR in B2C commercial practices as a quasi-label, seal of approval or trust mark is regulated under the UCPD.[156]

[153] ESMA Guidelines 2024, p. 8.
[154] *Ibid*, p. 6.
[155] Annex I, under 2a UCPD (consolidated version).
[156] Art. 2(q) UCPD (consolidated version).

EXAMPLE 10: USE OF ARTICLE 9 SFDR AS QUASI-LABEL



Source: https://www.eiffel-ig.com/en/peproducts/fcpr-eiffel-infrastructures-vertes/ (last accessed 15 October 2026)

It should be clear from what was considered in Section 4.2.1 above that **the use of 'Article 8' or 'Article 9' SFDR as a quasi-label for the sustainability of financial products in marketing practices is – without more – prohibited under Point 2a of Annex I, UCPD**. The fact that a financial product that meets the disclosure obligations under Article 8 or 9 of the SFDR does not, as such, warrant a sustainability label that is based on a certification scheme or established by public authorities, as required under the UCPD.[157] In the absence of such certification, the use of a quasi-label for Article 8 or Article 9 products to promote the trader involved or set its products apart from other financial products in a B2C commercial communication is banned by Annex I, UCPD.

This conclusion **aligns with the position of ESMA**, which has held that the classification of financial products under the SFDR is not intended as a labelling scheme: 'SFDR was not intended to be a labelling regime and does not include the type of requirements usually attached to voluntary labels, prompting further concerns of potential greenwashing'.[158] The Commission has proposed, as part of its efforts to revise the SFDR, to replace the classification under Articles 6, 8 and 9 SFDR with three-way product categorisation ('transition', 'ESG basics' and 'sustainable').[159]

[157] See also Rogge and Geeroms 2026, p. 8.
[158] ESMA, 'TRV Risk Monitor: ESMA Report on Trends, Risks and Vulnerabilities', No. 1, 2023 (ESMA50-165-2438), p. 35, https://www.esma.europa.eu/sites/default/files/library/ESMA50-165-2438_trv_1-23_risk_monitor.pdf (accessed 15 October 2026).
[159] European Commission, Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2019/2088 on sustainability-related disclosures in the financial services sector (SFDR), Regulation (EU) No 1286/2014 on key

However, in Example 10 the trader concerned also showcases **the Greenfin label**. As noted in Section 3.4, this voluntary label is governed by French Ministry of Ecological Transition and the UCPD does not prohibit the use of this government-led sustainability label. However, should the trader continue to use the label in B2C commercial communications while it is not compliant with the standards, such commercial practice is prohibited under Point 2 of Annex I, UCPD.

4.2.3 Misleading actions and EU financial law

Where the environmental claim is sufficiently specified – displacing it as a generic claim – the claim must meet the requirements of Article 6 (and Article 7, see Section 4.2.4) of the UCPD. Compliance with the information requirements detailed in the secondary EU financial laws listed and discussed in Section 1.2.1 and Section 4.1 above will help traders to ensure that any environmental claim related to the financial product or services made in a commercial communication is sufficiently clear, precise, accurate and substantiated. However, **the UCPD sets a standard for fairness that is different from the secondary EU financial laws**. Fairness should be considered from the perspective of the **average consumer**.

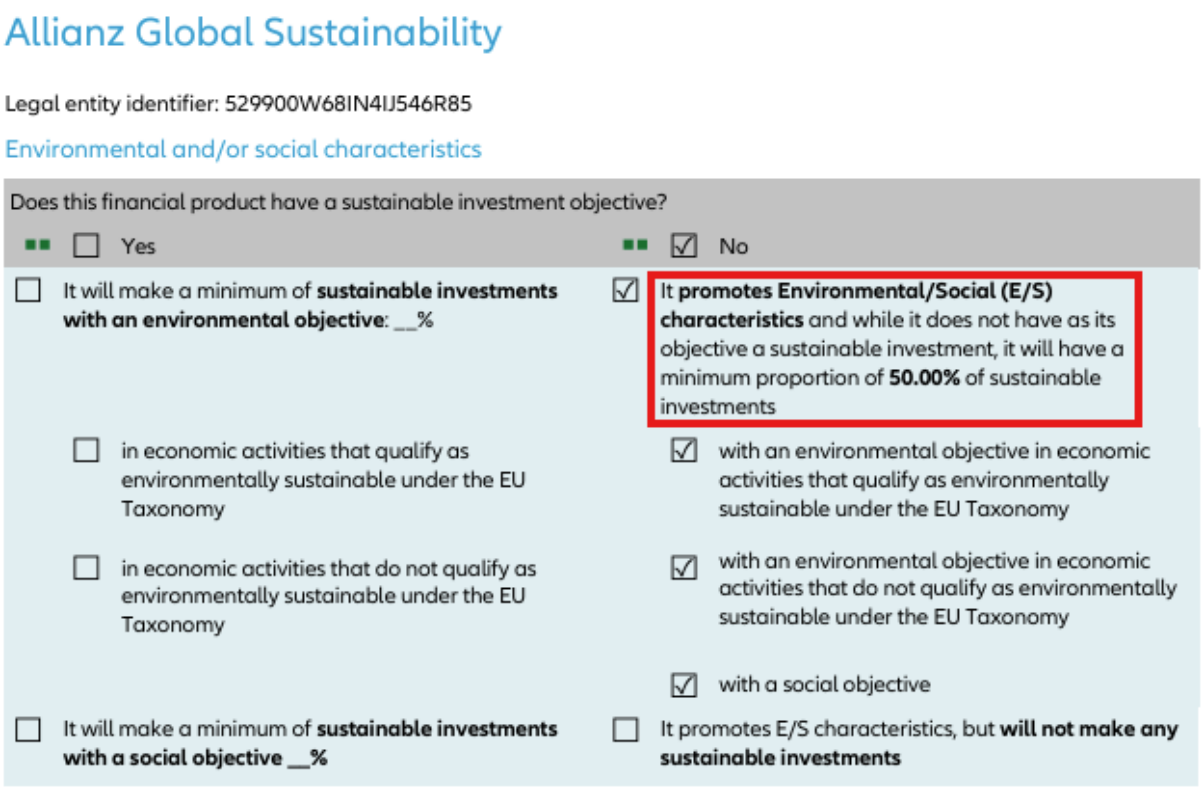
Accordingly, any case-by-case assessment of the legality of specified environmental claims relating to retail financial products or services under the UCPD will take the benchmark of the average consumer in determining whether the commercial communication involved is misleading or not. It follows from this that **compliance with secondary EU financial regulation does not immunize traders from scrutiny and liability under Article 6 (and Article 7) of the UCPD**. Accordingly, both national courts and administrative authorities at the Member State level remain competent to hear cases, initiate enforcement action against traders based on the national implementing laws of the UCPD, and sanction non-compliance.

Conversely, **non-compliance with secondary EU financial regulation can demonstrate that environmental claims about retail financial products and services made in B2C commercial communications are misleading**. Where traders do not meet the information requirements of sector-specific regulation that was developed to prevent deception, this offers consumers a strong evidentiary basis in proving that the trader violated Article 6 of the UCPD. To give an example, the ESMA guidelines on funds' names using ESG or sustainability-related terms include the standard that funds that include in their name transition-, social- and governance-related terms must meet 'an 80% threshold linked to the proportion of investments used to meet environmental or social characteristic or sustainable investment objectives.'[160] UCITS management companies and Alternative Investment Fund managers marketing funds that use names like 'Global Sustainability', 'Climate Protection', 'Sustainable Growth Equity', 'Equity SRI' or 'ESG Credit' should therefore keep to this guideline. If they do not, they are not clear about the environmental characteristics of their product and may violate Article 6 UCPD provided that the transactional decision test is satisfied.

information documents for packaged retail and insurance-based investment products (PRIIPs) and repealing Commission Delegated Regulation (EU) 2022/1288, COM (2025) 841 final (20 November 2025).

[160] ESMA Guidelines 2024, p. 8.

EXAMPLE 11: ENVIRONMENTAL CHARACTERISTICS OF A PRODUCT



Allianz Global Sustainability

Legal entity identifier: 529900W68IN4IJ546R85

Environmental and/or social characteristics

Does this financial product have a sustainable investment objective?

☐ Yes	☑ No
☐ It will make a minimum of **sustainable investments with an environmental objective**: __%	☑ It **promotes Environmental/Social (E/S) characteristics** and while it does not have as its objective a sustainable investment, it will have a minimum proportion of **50.00%** of sustainable investments
☐ in economic activities that qualify as environmentally sustainable under the EU Taxonomy	☑ with an environmental objective in economic activities that qualify as environmentally sustainable under the EU Taxonomy
☐ in economic activities that do not qualify as environmentally sustainable under the EU Taxonomy	☑ with an environmental objective in economic activities that do not qualify as environmentally sustainable under the EU Taxonomy
	☑ with a social objective
☐ It will make a minimum of **sustainable investments with a social objective __%**	☐ It promotes E/S characteristics, but **will not make any sustainable investments**

Source: Allianz prospectus[161]
(last accessed 15 October 2026)

In this example, Allianz offers a UCITS fund to investors, both professional and retail investors, that has a clear sustainability connotation. However, the fund only has a minimum proportion of 50% of sustainable investments. This is contrary to the ESMA guideline to only use sustainability-related fund names for funds that meet an 80% threshold linked to the proportion of investments used to meet environmental or social characteristic.' Considering that ESMA itself notes that the fund name is 'an important marketing tool' and 'can have a significant impact on their investment decision',[162] such non-compliance may amount to a misleading action under Article 6 UCPD and can help consumers to satisfy the transactional decision test.[163]

4.2.4 Misleading omissions and EU financial law

As noted in Section 3.6 above, **Article 7(5) UCPD** stipulates that: 'Information requirements established by Community law in relation to commercial communication including advertising or marketing, a non-exhaustive list of which is contained in Annex II, shall be regarded as

[161] Allianz Global Investors GmbH, Allianz Global Investors Fund (22 September 2026), p. 876 https://lu.allianzgi.com/-/media/allianzgi/eu/shared/mmpdocuments/vpe/vpe/2018/10/12/08/53/uf-lu1997244873-vpe-en-agifenvpsvvs-22092026.pdf?rev=7a032130d2a2435fb016ec9bf8aa89ec&hash=0DF6AE83C465BBFB36C200E42E5A0B0B (accessed 15 October 2026).
[162] ESMA Guidelines 2024, p. 6.
[163] Allianz offers more funds that carry sustainability-related names that fall below the 80% minimum threshold observed in the ESMA Guidelines 2024. See for example 'Allianz Climate Transition Credit' (Allianz Prospectus 2026, p. 448), 'Allianz Euro Credit SRI' (Allianz Prospectus 2026, p. 633), 'Allianz Europe Equity SRI' (Allianz Prospectus 2026, p. 691), 'Allianz Pet and Animal Wellbeing' (Allianz Prospectus 2026, p. 958), and 'Allianz SRI Multi Asset 75' (Allianz Prospectus 2026, p. 1012).

material.' The failure to provide the consumer with such **material information** in a clear, intelligible, unambiguous or timely manner, amounts to a misleading omission.

Annex II of the UCPD lists the regulatory predecessors of **MIFID II** and the **UCITS Directive**, as well as the predecessors of the **IDD** and the **Prospectus Regulation**. Given the non-exhaustive nature of Annex II of the UCPD and the objectives of the **SFDR**, the nature of its disclosure obligations, and Article 10 and 13 of the SFDR, this Regulation should also be considered to provide information requirements for commercial communications regarding the financial products involved. What is more, the **CBDF Regulation** 'establishes uniform rules on the publication of national provisions concerning marketing requirements for collective investment undertakings and on marketing communications addressed to investors' and should therefore also be understood as providing information requirements for commercial communications for particular financial products (i.e. specified funds, including UCITS and AIFs). Accordingly, all of these secondary EU laws must be understood to involve information requirements that relevant financial market participants must adhere to in B2C commercial communications regarding the financial products involved. The failure to comply with them, leads the trader to omit material information to the consumer. **Non-compliance with information requirements contained in these secondary EU laws will therefore help consumers to demonstrate the transactional decision test is satisfied**.

5 Avenues for enforcement action

The final section of this legal study will chart the ways in which violations of the substantive UCPD norms can be addressed, offering a general roadmap for enforcement action. By doing so, it answers the question: w*hat course of action can individual consumers, their legitimate representatives, and national competent authorities (individually or jointly) take if traders breach the legal requirements identified?*

5.1 Overview of (in)formal avenues

Under **Article 11 UCPD**, Member States must ensure that effective and adequate mechanisms are in place to prevent and address unfair commercial practices, thereby safeguarding consumer interests. These enforcement mechanisms should at least include legal procedures that allow individuals and organisations with a legitimate interest in combating unfair commercial practices, such as competitors and consumer organisations, to bring actions before **national courts** or **competent administrative authorities**. Such authorities should have the power either to adjudicate complaints or to initiate appropriate legal proceedings. Enforcement action can lead to the award of **injunctive relief**, including the cessation of prohibited commercial practices, a preventative order to block the use of such a practice. Alternative, **affirmative relief** can be ordered to require a trader to publish an enforcement decision in full or in part and in such form as deemed adequate, or to require it to publish a corrective statement (which may have a naming-and-shaming effect in the market). Both injunctive and affirmative orders may be granted on an interim or final basis, and with/without an incremental penalty payment (a so-called *astreinte*, *dwangsom,* or *Unterlassungsklage*). Courts and administrative authorities may also impose **warnings** and **penalty fines**. Article 13(2) UCPD lays down a list of non-exhaustive and indicative criteria that these enforcers should take into account when imposing the penalties.[164]

National courts may, in addition and as far as national private law allows them to, **nullify or rescind a contract** concluded under the influence of the unfair commercial practice(s) involved, or award **compensatory damages** for the harm suffered by the consumer(s) as a result of the unfair commercial practice. They may also issue a **declaratory decision** (declaring the commercial practice unfair). In this area of private enforcement, the Directive on representative actions has introduced in all Member States the possibility of enforcing the UCPD through **collective, representative actions**.[165] Such actions could be brought by qualified entities, seeking injunctive and redress measures on behalf of the affected consumers. National laws may also enable the collective compensation of (mass) harm suffered by consumers as a result of commercial practices that violated the UCPD.

Member States are also expected to promote **effective cooperation and coordination** among the public authorities responsible for enforcement. Where responsibility for enforcing the UCPD and sector-specific legislation is divided between different authorities, those authorities should work closely together and exchange information in good faith to ensure consistent and coherent enforcement outcomes. At the European level, collaboration among authorities from

[164] See in detail Commission Guidance 2021, p. 23.
[165] Directive (EU) 2020/1828 of the European Parliament and of the Council of 25 November 2020 on representative actions for the protection of the collective interests of consumers and repealing Directive 2009/22/EC, OJ 2020 L 409/1.

different Member States has been institutionalised through the Consumer Protection Cooperation (CPC) Network. Articles 13(3) and (4) UCPD provide prescriptive rules regarding penalties that must be available under national law for infringements that are subject to coordinated actions under the CPC Regulation.[166]

Article 10 UCPD allows the regulation of unfair commercial practices through industry self-regulatory bodies. National courts and administrative authorities may encourage recourse to such bodies before hearing and adjudicating complaints or taking enforcement action themselves. However, this is only so if proceedings before such private bodies are in addition to the court or administrative proceedings because **recourse to self-regulatory bodies will never be deemed the equivalent of foregoing a means of judicial or administrative recourse** as provided for in Article 11.[167]

Article 12 UCPD requires that traders can furnish the **evidence to support** their environmental claims to competent enforcement authorities whenever requested. Traders must substantiate their claim in an understandable way if the claim is challenged.[168] The **burden of proof regarding the accuracy of the claim rests on the trader**. Article 12(a) UCPD provides that Member States should empower national enforcement authorities 'to require the trader to furnish evidence as to the accuracy of factual claims in relation to a commercial practice'.[169] In practice, this is a key instrument to ensure the substantiation of claims.

5.2 Interplay between (in)formal avenues

The formal and informal ways in which the UCPD substantive norm can be enforced can be arranged so that they form an **escalation ladder**. In this way, the enforcement action taken can be effective, proportionate and dissuasive taking into account, among other things, the nature, gravity, scale and duration of the infringement; the action the trader has taken to mitigate or remedy any damage suffered by consumers; the intend of the trader; the trader's track record of enforcement actions; and the financial benefits gained or losses avoided by the trader due to the infringement.[170]

A first, informal avenue of enforcement involves the **(out-of-court) negotiations** to remediate the information gap or incorrectness. This enables the trader to substantiate its claims and share the relevant and up-to-date evidence to back the claim up. If this is not possible for the trader, it should amend or withdraw the challenged claim.

If the trader persists in its claim, a second step could be the **submission of a complaint to a national self-regulatory body** concerned with misleading advertising or other unfair commercial practices.[171] Alternatively, a complaint can be lodged before a national **consumer protection authority, a financial market authority** or any other national administrative

[166] Regulation (EU) 2017/2394. See in detail Commission Guidance 2021, p. 24.
[167] See in great detail on this interplay between private and public enforcement of unfair commercial practice law P. Verbruggen, *Transnational Private Regulation in the Advertising Industry*, Case study Report HiiL 2011, http://dx.doi.org/10.2139/ssrn.2256043 (accessed 15 October 2026).
[168] See extensively Commission Guidance 2021, 75. See in the context of Greenhouse Gas offsetting claims (e.g. 'carbon neutral', 'CO2 zero', 'net-zero emissions') C. Kaupa, 'Promotion of Greenhouse Gas "Offsetting" as a Misleading Commercial Practice' (2022) *Journal of European Consumer and Market Law* 11(4), p. 139-146.
[169] Commission Guidance 2021, p. 81-82 (regarding environmental claims).
[170] Cf. Article 13(2) UCPD.
[171] In case of complaint regarding a cross-border commercial practice, the European Advertising Standards Alliance provides for a complaint handling system. See https://www.easa-alliance.org/cross-border-complaints-system/ (accessed 15 October 2026).

authority holding competences to enforce the national provisions implementing the UCPD.[172] Another alternative is private enforcement. In this case, a claimant (either a consumer, competitor, or a representative organisation) serves the trader with a **writ of summons** to start a formal civil lawsuit. In the course of these proceedings, the complainants and the trader may still seek to **settle the complaint amicably**. This may also involve action within the CPC Network if the complaint concerns (alleged) unfair commercial practices across the EU.

The next step in the escalation ladder involves **formal investigations and/or litigation**. In case a violation of the UCPD substantive norms is found by a national court or administrative authority at the Member State level, several sanctions or remedies may be imposed, which can also be organised along the escalation ladder. These may involve – ordered in degree of severity – a formal **warning**, a **declaratory decision**,[173] an award of injunctive relief (**a cease-and-desist order**)[174] or affirmative relief requiring a corrective statement to be made publicly,[175] or the **nullification of contracts** concluded due to the unfair commercial practice involved.

The next-to-last step may involve the award of **compensatory damages** (typically by a court)[176] or the imposition of **financial penalties** (typically by an administrative authority).[177] A financial market authority may even go as far as to suspend or revoke the license to offer financial products or services on the market. Frequently, **license revocation** is the ultimate penalty since the trader will not be able to offer its products or services and will be out of business.



Example of a sanction escalation ladder for UCPD violations

[172] See e.g., the complaint that ClientEarth submitted to the French *Autorité des marchés financiers* in October 2024: https://www.clientearth.org/media/0tuj2bit/clientearth-complaint-to-the-amf-english.pdf (accessed 15 October 2026).
[173] See e.g. District Court of Amsterdam (*Rechtbank Amsterdam*) 20 March 2024, ECLI:NL:RBAMS:2024:1512 (*FossielVrij/KLM*), para. 4.55, unofficial translation www.clientearth.org/media/cx4po41h/klm-judgment-20-march-2024.pdf (accessed 15 October 2026).
[174] See e.g. District Court of Paris (*Tribunal de Paris, 34ème cambre*), 23 October 2025, N° RG 22/02955 - N° Portalis 352J-W-B7G-CWJKL (*Association Greenpeace and others/ TotalEnergies)*, dictum under 4, www.amisdelaterre.org/wp-content/uploads/2025/10/decision-total-gw-231025.pdf (accessed 15 October 2026).
[175] *Ibid*, dictum under 6.
[176] *Ibid*, dictum under 3.
[177] Competition and Market Authority (*Autorità Garante della Concorrenza e del Mercato*), Decision No. PS12709 (*Infinite Styles Services Co. Ltd – SHEIN*), 29 July 2025, p. 68 ('una sanzione amministrativa pecuniaria di 1.000.000 € (un milione di euro)'), www.agcm.it/dotcmsdoc/allegati-news/PS12709%20chiusura.pdf, (accessed 15 October 2026).