

ESG for financial services firms: Pillar 3 – Policies and procedures



Environmental, Social and Governance (ESG) and sustainability obligations and expectations now extend beyond climate-related risks and encompass governance and social considerations such as diversity, equity & inclusion (DE&I) and tackling non-financial misconduct. Our multidisciplinary financial services team is well-placed to advise clients on responding to the latest ESG developments and meeting the expectations of both regulators / law enforcement agencies and other market participants. We can also help clients to evaluate opportunities and advise them on how to most effectively manage emerging risks.

Our ESG offering for financial services firms

To help our financial services clients navigate the complexities associated with embedding ESG considerations and compliance into their businesses, we have designed our ESG offering around the following 6 “Pillars”:

1. Governance.
2. Risk identification, assessment and mitigation.
3. Policies and procedures.
4. Product design, labelling, manufacturing and distribution.
5. Disclosures and reporting.
6. Regulatory interventions, investigations and disputes.

This brochure sets out our approach in relation to policies and procedures (“Pillar 3”).

Our services in relation to policies and procedures

Effective compliance with the broad range of ESG-related obligations requires sophisticated risk management frameworks, implemented through comprehensive policies and procedures.

We have extensive experience supporting firms to embed ESG-related requirements within their existing policies and procedures, as well as working with clients to develop new documentation where necessary.

There is a range of support which we can offer to clients in relation to effectively building ESG considerations into their policies and procedures. This includes:

- Reviewing and updating existing policies, procedures, processes, systems and controls.
- Working with clients to, where required, design additional policies, procedures, processes, systems and controls.
- Testing and validating existing risk and control frameworks as they pertain to policies and procedures. Where necessary, we can also help clients to update associated governance frameworks.
- Designing (and, where helpful, delivering) training in relation to policies and procedures for employees at large or for specific populations of staff.
- Advising on enhancements that could be made to existing governance frameworks in relation to the way in which updates to and responsibility for compliance with ESG-related policies and procedures are addressed. Where necessary, we can also help clients to update associated governance frameworks.

In relation to social and conduct-related issues (including, but not limited to, DE&I and non-financial misconduct) we can also assist clients by:

- Reviewing and updating policies and procedures relating to the client’s approach to social issues in general.
- Updating existing policies and procedures that specifically deal with conduct-related issues (including employee handbooks (to take account of COCON) and Fitness and Propriety assessments (to take account of rules in FIT)).
- Advising on the effectiveness of grievance and whistleblowing policies and procedures.

- Training staff members on various regulatory expectations and requirements including, but not limited to, non-financial misconduct, DE&I and other social considerations.

The scope of the UK's general anti-greenwashing rule extends not only to 'greenwashing' but also 'social-washing' - this means that the policies and procedures that firms put in place to ensure compliance with this rule need to effectively accommodate in-scope communications concerning both social and environmental characteristics. Fully embedding this broader scope within the relevant policies and procedures can prove challenging for some firms.

Our tools and products

In addition to providing bespoke advice, we have developed a number of tools and products to support clients. These include:

- **ESG Updater.** Our multi-jurisdictional ESG updater keeps clients informed of the latest developments and best practices in ESG globally, including from regulators in the UK, US, Australia and EU. Receiving this updater service can help clients ensure that their ESG strategies remain aligned with standards and expectations as they evolve.
- **Anti-Greenwashing Tool.** In light of the FCA's Anti-Greenwashing Rule, we have developed an anti-greenwashing tool to assist clients in identifying potential greenwashing risks within their financial products and promotional materials.
- **Tailored Training Programmes.** Working with our clients, we can design a tailored internal training programme to address specific needs and concerns amongst different populations of staff and provide practical guidance on managing ESG-related matters and risks.
- **Podcasts and Blogs.** Our series of podcasts and blog posts on Global Regulation Tomorrow can serve as an invaluable tool for clients navigating the ESG landscape by providing timely and accessible insights into key issues and developments.

Why instruct Norton Rose Fulbright?

Instructing Norton Rose Fulbright provides access to:

- **A multidisciplinary team of experts.** Our team comprises a blend of contentious and advisory lawyers and risk advisory experts, enabling us to provide a broad range of advice across all key jurisdictions.
- **A team with a depth of experience.** We have a broad understanding of how financial services firms operate. We understand the issues which arise when managing regulatory risks and balancing internal sensitivities and can help clients to navigate these complexities.
- **A team that can provide market insights.** We have a broad view of common practices across the professional services market due to our diverse client base.
- **Advice which can benefit from legal privilege.** Provided certain steps and protocols are followed, it may be possible for a client to assert privilege over advice that we provide, which has a number of benefits including protecting such advice from disclosure.

Our experience

Our team has extensive experience of advising financial services firms on ESG issues. Some of our recent experience includes:

- Advising a private asset and wealth manager on a range of UK and EU sustainable finance matters, including policy development in light of the EU SFDR, the EU Taxonomy Regulation, FCA rules on TCFD-aligned climate-related financial disclosures, and the UK SDR and labelling regime.
- Developing a bespoke monitoring, analysis and reporting service for a private asset and wealth manager focusing on ESG-related policy initiatives in the UK and EU.
- Advising a client on enhancements to its reporting processes and end-to-end risk governance, working with their risk and compliance team to modify and train on their ESG related policies and procedures.
- Conducting a study for Europex, considering a range of policy and legislative trends relating to the green

agenda, to assist in the formulation of policy, legislative and regulatory objectives for the new European Commission.

- Assisting a client with a review of a suite of sustainable finance policies in the context of policy-level disclosure requirements under SFDR.

Key Contacts



Matthew Gregory

Partner

London

+44 (20) 74442467

matthew.gregory@nortonrosefulbright.com



Hannah McAslan-Schaaf

Counsel

London

+44 (20) 74443147

hannah.mcaslan-schaaf@nortonrosefulbright.com



Saara Alimahomed

Associate

London

+44 (20) 74443492

saara.alimahomed@nortonrosefulbright.com



Haney Saadah

Managing Director of Risk Advisory, EMEA

London

+44 (20) 74442519

haney.saadah@nortonrosefulbright.com



Janna Garcia

Senior Risk Advisory Manager

London

+44 (20) 74443291

janna.garcia@nortonrosefulbright.com



Emily Stone

Risk Advisory Analyst

London

+44 (20) 7444 2808

emily.stone@nortonrosefulbright.com